Canada

Competition Bureau

Newsletter

News Release

ONLINE ANTI-COMPETITIVE BEHAVIOUR HIT BY CANADIAN COMPETITION BUREAU AND U.S. FEDERAL TRADE COMMISSION

Ottawa, April 24, 1997 — The Competition Bureau, the U.S. Federal Trade Commission (FTC) and members of provincial, territorial and state law enforcement organizations collaborated recently to target Internet web sites and usergroups which contain potentially misleading descriptions of business opportunities.

This was the first combined Internet sweep to identify potential scams making false or unsubstantiated earnings claims on the Internet. In addition, the sweep was designed to make promoters of business opportunities on the Internet aware of the relevant Canadian and American laws.

"The role of the Competition Bureau is to ensure that Canadians can benefit from opportunities now available to them online," said Konrad von Finckenstein, Q.C., Director of Investigation and Research, who is responsible for enforcing the *Competition Act*. "In an era where we are seeing increases in examples of borderless crimes, consumers should be aware of questionable Internet sites and usergroups, and cooperation between enforcement agencies is crucial."

The Bureau is monitoring these practices and anyone with relevant information can contact the Bureau in the following ways:

Toll Free 1-800-348-5358
In the National Capital Area: 997-4282

Complaints may be sent to:

Bernard Chénier
Complaints and Public Enquiries Centre
Competition Bureau
Industry Canada
50 Victoria Street
Hull, Quebec
K1A 0C9

or by e-mail to: complaints@bcp.ic.gc.ca

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For more information, please contact:
Cécile Suchal
(819) 953-5303

Release 7680-e

Communiqué

LE BUREAU DE LA CONCURRENCE DU CANADA ET LA FEDERAL TRADE COMMISSION DES ÉTATS-UNIS S'ATTAQUENT À DES PRATIQUES ANTICONCURRENTIELLES SUR INTERNET

Ottawa, le 24 avril 1997 — Le Bureau de la concurrence, la Federal Trade Commission (FTC) des États-Unis et des membres d'organismes d'application de la loi de divers États américains et de provinces et territoires canadiens ont récemment uni leurs efforts en vue de trouver sur Internet des sites web et des groupes de discussion contenant des descriptions possiblement trompeuses de possibilités d'affaires.

C'était la première recherche conjointe sur Internet afin d'identifier de potentielles escroqueries reposant sur des allégations fausses ou non fondées. Cette recherche avait aussi pour objet de faire connaître les lois canadiennes et américaines pertinentes aux personnes qui font la promotion de possibilités d'affaires sur Internet.

«Le rôle du Bureau de la concurrence est d'assurer que les Canadiens et les Canadiennes puissent profiter des occasions qui leur sont maintenant offertes sur Internet,» a déclaré Konrad von Finckenstein, c.r., Directeur des enquêtes et recherches, qui est responsable de l'application de la *Loi sur la concurrence*. «Dans un domaine où nous voyons une augmentation d'exemples de crimes internationaux, les consommateurs et les consommatrices devraient être à l'affût des sites web et des groupes de discussion suspects et une coopération entre les organismes d'application est cruciale.»

Le Bureau surveille ces pratiques et quiconque possède des renseignements pertinents peut communiquer avec le Bureau d'une des façons suivantes :

Appel sans frais : 1-800-348-5358
Dans la région de la Capitale nationale : 997-4282

Les plaintes peuvent être envoyées à :

Bernard Chénier
Centre des plaintes et des renseignements
Bureau de la concurrence
Industrie Canada
50, rue Victoria
Hull (Québec) K1A 0C9

ou par courrier électronique à : plaintes@bcp.ic.gc.ca

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Pour de plus amples renseignements, veuillez communiquer avec :

Cécile Suchal
(819) 953-5303

Release 7680-f

News Release

GASOLINE INQUIRIES FIND NO EVIDENCE OF ANTI-COMPETITIVE BEHAVIOUR

OTTAWA, March 18, 1997 — Investigations by the Competition Bureau into practices of several major gasoline companies have produced no evidence to support allegations of price fixing, anti-competitive behaviour and misleading advertising.

"Thorough investigations have been undertaken by Competition Bureau staff who were assisted by independent experts", said Konrad von Finckenstein, Q.C., Director of Investigation and Research, who is responsible for the administration and enforcement of the *Competition Act*. "No evidence of any competition offence was found."

During the Spring and Summer of 1996, four gasoline inquiries were initiated following the receipt of applications pursuant to section 9 of the *Act.*

There was an allegation that the major gasoline companies had engaged in a national, price fixing conspiracy. The investigation determined that there was no evidence to support this allegation.

A second allegation was made that Ultramar Canada Inc.'s Value Plus marketing campaign was a predatory pricing practice aimed at eliminating the competition and was misleading. The investigation concluded that the price war which broke out in Quebec and the Maritimes in the summer of 1996 was initiated by a variety of firms, including independents, and that Ultramar initiated price decreases a relatively small percentage of the time. Overall, the investigation concluded that the price wars were an indication of healthy competition for market share.

A third allegation addressed the issue of abuse of dominant position as it related to Ultramar and other regional and national petroleum companies. The investigation found no evidence to support the allegations that the companies were squeezing the margins available to independent petroleum marketers with the intent of forcing the independents out of business. In fact, the margin between crude and retail prices has been shrinking for all firms over the past decade. The evidence indicated that declining margins being earned by large and small Canadian petroleum companies are the result of competition and the restructuring in the industry.

The fourth allegation that the national and regional petroleum companies were selling gasoline at prices lower than acquisition costs was also investigated. The inquiry concluded that the pricing practices were not designed to eliminate or discipline gasoline retailers, but were as a result of the price wars at the retail level in Québec.

There was a fifth allegation that Ultramar made false and misleading claims in its advertising campaign. The investigation found that the claims made by Ultramar did not raise any issue under the *Act* and that the statements made were not misleading.

"The role of the Competition Bureau is to examine and prevent anti-competitive behaviour; thereby ensuring a competitive marketplace", said Mr. von Finckenstein. "In fact, in the gasoline industry alone over the past number of years we have investigated close to fifty cases involving alleged anti-competitive behaviour and have prosecuted 11 of them, resulting in 9 convictions."

For copies of background material or expert reports, please contact the Competition Bureau at these numbers:

Toll Free 1-800-348-5358
In the National Capital Area: 997-4282

Background material can also be obtained:
on the Internet at: http://strategis.ic.gc.ca/competition
by Fax-on-Demand: (819) 997-2869 (Publication Number 1050)

Written requests can be sent to:

Bernard Chénier
Complaints and Public Enquiries Centre
Competition Bureau
Industry Canada
50 Victoria Street
Hull, Quebec
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DISCONTINUED INQUIRIES CONCERNING CANADA'S GASOLINE INDUSTRY

BACKGROUNDER

Executive Summary

Competition Act

The *Competition Act* is a federal law designed to maintain and encourage competition in order to promote the efficiency and adaptability of the Canadian economy. A partial list of criminal offences under the purview of the *Act* includes price-fixing, agreements among competitors to share markets, bid-rigging, price discrimination, price maintenance and misleading or deceptive marketing practices. Civil matters subject to review include mergers, market restriction, tied selling and abuse of dominant position or monopoly power.

The *Act*, however, is not a vehicle for regulating prices or protecting individual firms from changing market forces. Rather, it reflects a common understanding that competition can best determine appropriate prices while maintaining an incentive for product development, improved efficiency and lower prices. Indeed, experience has shown that, when attempts are made by governments to regulate gasoline prices, prices tend to be higher than in markets where no such regulation exists.

Six-Resident Complaints

During the Spring and Summer of 1996, four gasoline inquiries were initiated under the *Competition Act* following the receipt of applications from six residents of Canada pursuant to section 9 of the *Act*. The Director of Investigation and Research, who is responsible for the administration and enforcement of the *Competition Act*, is required to initiate an inquiry after receiving such an application provided it meets certain requirements. Once started, however, the direction of the inquiries is determined by the evidence.

The first application, received on May 13, 1996 alleged that a national, price-fixing conspiracy by oil companies had led to retail prices that were higher than could be justified by increases in crude oil prices. Two subsequent applications, received on July 8 and July 10, concerned a range of anti-competitive acts primarily related to allegations that Ultramar and other major oil companies were using low retail prices to force independents out of business. A fourth application, received on July 26, alleged that Ultramar's advertising had misled the public about the real reasons for its low prices.

How Current Inquiries Were Conducted

The four inquiries were carried out by Competition Bureau staff assisted by senior legal counsel. Representatives of the six-resident applicants, major petroleum companies, independents, importers and other persons with relevant information were examined under oath. Some of those examined under oath were also asked to provide documentation in response to questions put to them by counsel for the Director, either in advance of the examinations, or in response to questions posed during the examinations. The Director's staff also conducted interviews in a number of local markets.

Additionally, one industry and two economic consultants were contracted to report independently on key aspects of the allegations. Their reports are available on request, at the Competition Bureau, 1-800-348-5358.

During the course of these inquiries, there were also ongoing investigations into gasoline prices by New Brunswick, British Columbia and the United States. Bureau staff consulted with groups responsible for these investigations and considered information obtained by them.

Inquiry Conclusions

Evidence collected during the investigations did not support any of the allegations and the Director of Investigation and Research has discontinued them. In summary:

- All allegations were examined carefully and further inquiry cannot be justified.

- The Director found no evidence of a price-fixing conspiracy. Instead the evidence suggests that wholesale and retail gasoline prices closely follow crude oil prices and are subject to both domestic and international competition.

- While prices may be similar in local markets, there are competitive reasons for this related to the nature of the retail gasoline market. Additionally, rather than high profits resulting from price fixing, the evidence indicates declining margins and significant efforts by companies to reduce costs and increase efficiency.

- The price wars which formed the basis of some of the applications reflect, in part, an ongoing restructuring in the gasoline retail industry. The number of stations, for example, has decreased during the last ten years and the average volume per station has increased. This has allowed high-volume stations to reduce the retail margin per litre of gasoline which, in turn, has put additional pressure on some retail outlets with low volumes. Latest

available figures indicate that Canada operated twice the number of service stations per capita as the United States in 1994.[1]

- Evidence did not substantiate the allegations that Ultramar's Value Plus marketing campaign in the Province of Quebec misled the public.

- Evidence also confirmed previous studies undertaken by the Competition Bureau or other organizations which suggest that barriers to new entry, or barriers to expansion by existing firms, are comparatively low and represent a potential check against firms that attempt to raise prices to inappropriate levels.

Additional Background

Over the last twenty-five years, the Director has conducted several comprehensive inquiries related to gasoline and a number of smaller inquiries concerning local markets. Since 1972, for example, there have been eleven trials related to gasoline prices resulting from inquiries initiated by the Director. Nine of these cases concluded with convictions. For the most part, however, these cases have concerned local markets and isolated incidents. To date, no inquiry has ever produced evidence suggesting that there is a national or regional conspiracy to limit competition.

Similarly, the former Restrictive Trade Practices Commission, an independent quasi-judicial body, conducted extensive hearings into the gasoline industry during the 1980s with similar results. More recently, the Competition Tribunal also examined issues in relation to the Imperial Oil acquisition of Texaco Canada that are related to the current inquiries, such as barriers to entry and the market strength of independents, and its conclusions were consistent with those reached in the current inquiries.[2]

Many Canadians purchase gasoline on a regular basis and are very conscious of price changes. This combination of dependency and price sensitivity can sometimes lead to suspicion and frustration for consumers when they notice gasoline prices rising or falling rapidly, or varying significantly from one area to another. Price volatility, however, can often be indicative of a competitive market rather than a market where prices are fixed. Adjusted for inflation, the pre-tax price of gasoline is about 5¢/litre lower today than it was in 1980.

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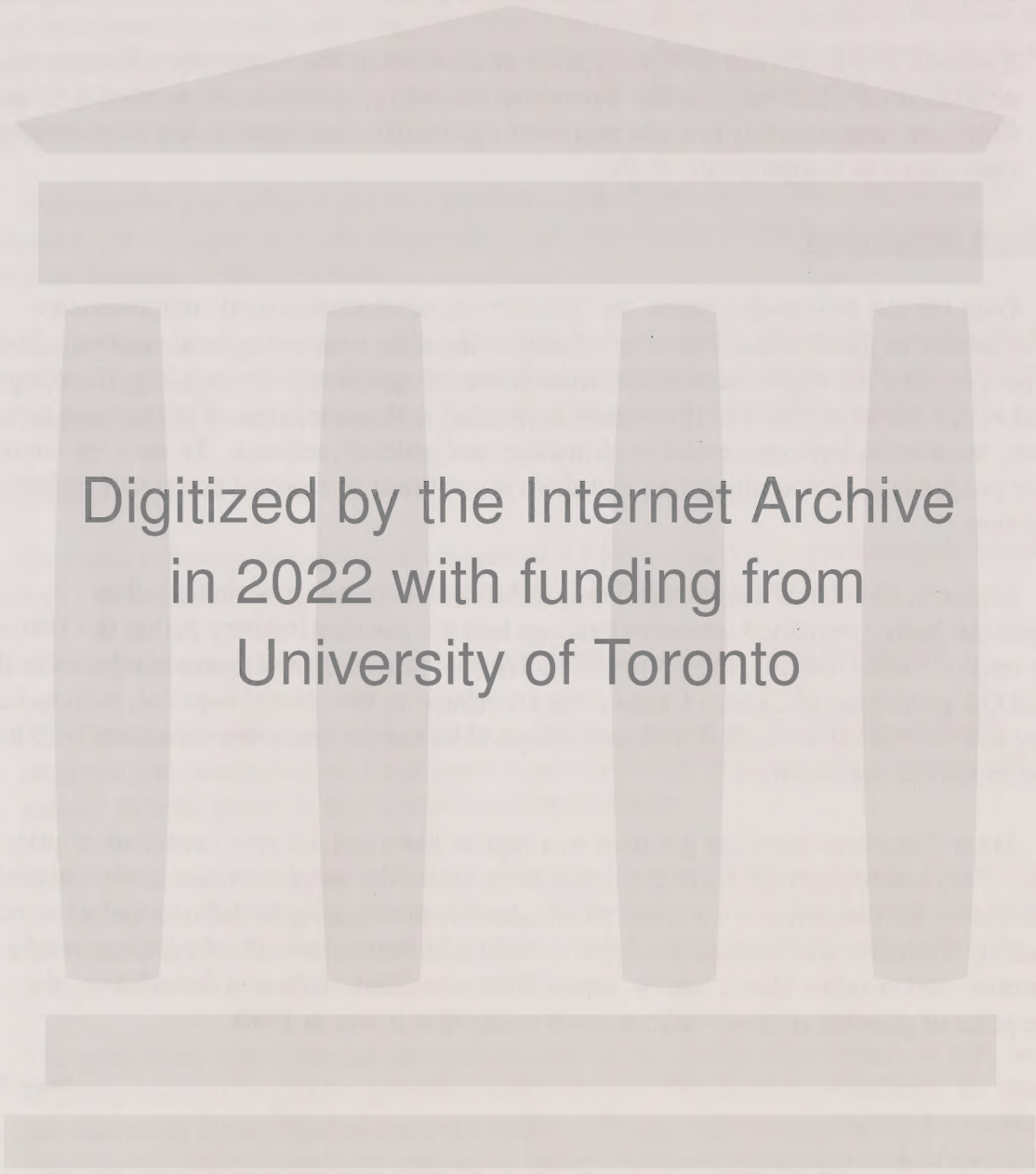
[1] *Petroleum Products, Part 1 —Overview and Prospects, Sector Competitiveness Frameworks*, Minister of Supply and Services Canada, 1996, p. 22.

[2] The Competition Tribunal replaced the Restrictive Trade Practices Commission in 1986.



Background Module

Price-Fixing (Gasoline Inquiry #1)

Complaint

In the Spring of 1996, following a sequence of gasoline price increases, the Director received a six-resident application alleging a national, price-fixing conspiracy. Statements used to support this allegation included:

- the claim of the Canadian Petroleum Products Institute that the March price increases of retail gasoline were a result of a 30% increase in international crude oil prices "contradicts the Par Crude Postings at Edmonton and the West Texas Intermediate price figures, both of which reflect an increase of much less than 30%";
- retail gasoline prices had reacted much more quickly to increases in crude oil prices than to decreases in crude oil prices; and
- retail gasoline prices "consistently move up overnight."

This module first discusses relevant provisions of the *Competition Act* and then addresses each allegation separately.

Competition Act (Conspiracy)

Section 45 of the *Act* makes it an offence for anyone to agree or arrange with another person to prevent, or lessen unduly, competition in the sale or supply of a product. This could include, for example, price fixing or market allocation schemes (dividing markets or customers among competitors). Direct or inferential proof of an agreement among competitors is needed. In addition, the Crown is required to prove beyond a reasonable doubt that the parties to an agreement have unduly lessened competition. Penalties for conspiracy include a fine of as much as $10 million, or up to five years imprisonment, or both.

The existence of identical prices or the fact that competitors match each other's price movements is not, by itself, evidence of an agreement, particularly when there are plausible alternative explanations. In gasoline retail markets, the visibility of posted prices, and the predominant consumer perception that gasoline sold by different companies is essentially the same product, could logically produce similar or identical prices without an agreement. Gasoline retailers cannot realistically sell at higher prices than nearby competitors without quickly losing significant business.

Spring 1996 Price Increases and Relationship to Crude Oil Prices

The following table lists the Par Crude Postings at Edmonton and for West Texas Intermediate for the period March 1 to April 15 (the date at which crude prices began to fall).

Benchmark	March 1st Price (Cdn$ / Barrel)	April 15th Price (Cdn$ / Barrel)	% Change
Cdn Par Edmonton	$16.14	$20.89	29.4%
WTI	$17.28	$21.89	26.7%

Source: Natural Resources Canada

Contrary to the allegations, therefore, these postings indicate an increase in crude oil prices of approximately 27% to 30% consistent with the report of the Canadian Petroleum Products Institute.

Nevertheless, it is recognized that comparisons of price increases are highly sensitive to the dates selected. For example, the percentage increase in the Par Crude Posting at Edmonton from February 27, 1996 to May 3, 1996 was 3%. If the dates chosen were February 6, 1996 to April 16, 1996, the percentage increase was 48%. Further insight into the Spring 1996 price increases, in relation to allegations contained in the first six-resident application, is provided by the following quote from one of the independent experts retained by the Competition Bureau:

> In virtually all cities, a short spike in gasoline retail prices in April 1996 comes after a long period of increasing crude oil prices. Crude prices rose by almost 50% between mid January and mid April, 1996. Retail prices in some cities appeared to rise unusually because in mid January several short but intense price wars drove retail prices down to unrealistically low levels. An analysis of mark-ups and margins indicates that there was no systematic increase in mark-ups or margins, and indeed, the 1996 level of the gasoline mark-up over the crude price and over the rack price was typically lower than in previous years.[1]

"Retail Prices React More Quickly to Increases in Crude Oil Prices than Decreases"

Two economic experts retained by the Director conducted separate empirical analyses to determine whether this price "asymmetry" is present in Canadian wholesale or retail prices.[2]

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[1] Report of Dr. George Lermer, Faculty of Management, University of Lethbridge, p.46.

[2] Dr. Ken Hendricks of the Department of Economics, University of British Columbia, and Dr. George Lermer, Faculty of Management, University of Lethbridge. These reports are available on request.

Dr. Hendricks found no price asymmetry. Dr. Lermer found a modest degree of asymmetry but concluded that the speeds of adjustment were so quick that any asymmetry which may exist has a negligible effect on consumers. He also noted that his data indicated that the measured asymmetry was inconsequential when compared to the effect on consumers of the downward trend in wholesale and retail prices."

"Gasoline Prices At The Pump Move Up All At Once Overnight"

Gasoline markets possess characteristics which are, in theory, conducive to conscious parallelism. Conscious parallelism essentially involves firms in an industry acting in a similar but independent fashion. Each local gasoline market consists of a number of sellers, all selling a similar if not homogeneous product. Any one of these sellers in a given market can affect market prices by independently changing its price. Furthermore, rivals can easily get information about their competitors' price changes; react to them quickly; and the reactions of rivals to these price changes are readily available to all market participants at little cost.

Provided that conscious parallelism is not the result of an unlawful agreement, it is not an offence under section 45 of the *Act*. The Director will closely investigate parallel conduct among competitors to determine whether an inference can be drawn that parallelism is the result of an unlawful agreement. If this inference is drawn, the Director will not hesitate to pursue the conduct under section 45. However, if the presence of an agreement cannot be inferred from the evidence, by itself, and where market factors make parallel but independent behaviour probable, systematic pricing or similarities in other key competition variables are unlikely to justify a conclusion on the part of the Director that the *Act* has been breached.

No evidence of a conspiracy or agreement was found. Rather, the evidence obtained indicated that the retail gasoline industry is acutely price sensitive. Retailers, for example, continuously monitor each others' prices independently and adjust their own prices to remain competitive.

Conclusions

In summary, the inquiries have not uncovered any evidence of an illegal agreement nor could the Director infer an illegal agreement from evidence obtained.

First, there was nothing unusual about Spring 1996 pricing patterns in light of historical data which indicates that gasoline retail prices generally rise each spring as a result of changes in demand for petroleum products. Second, while gasoline prices may arguably respond quicker to crude oil price increases than decreases, the response is so quick that any cost to consumers was negligible. Third, there are competitive reasons for similar pricing in local markets and evidence gathered in these inquiries suggest that gasoline markets are competitive.

Background Module

Predatory Conduct (Inquiry #2 & #3)

Complaint

While Inquiry #1 concerned high prices, the Director received two additional six-resident applications on July 8 and July 10, 1996, related to low gasoline pricing, in general, and Ultramar's Value Plus program in particular. Under this marketing program, Ultramar promised to meet or beat its competitors' prices: including those of "independent" brands which, depending on the local retail market, are often slightly lower than the prices of major oil companies.

The Value Plus program started a series of price wars in Quebec as well as in the Maritime provinces which produced, for a short period of time, some very low retail prices: including prices which were below the wholesale costs of some independents. In particular, these applications alleged:

(1) a conspiracy among the major oil companies to force the independents out of business;
(2) price discrimination;
(3) predatory pricing; and
(4) abuse of dominant position.

1. Conspiracy to Eliminate Independents

Competition Act

Section 45 of the *Act* makes it an offence for anyone to agree or arrange with another person to prevent, or lessen unduly, competition in the sale or supply of a product. This could include, for example, price fixing or market allocation schemes (dividing markets or customers among competitors). Direct or inferential proof of an agreement among competitors is needed. In addition, the Crown is required to prove beyond a reasonable doubt that the parties to an agreement have unduly lessened competition. Penalties for conspiracy include a fine of as much as $10 million, or up to five years imprisonment, or both.

Evidence

There was no evidence uncovered in the course of the inquiries to suggest that national and regional petroleum companies had entered into an agreement or arrangement, tacit or explicit, to eliminate independent gasoline marketers, or to enter into any other type of anti-competitive agreement, in violation of the conspiracy provision.

Evidence obtained indicated that price reductions which followed Ultramar's introduction of the Value Plus program were initiated by a variety of firms, including independents, and there was no evidence to suggest that there was an overall conspiracy to eliminate independents.

As discussed with respect to Inquiry #1, conscious parallelism can reflect normal competitive behaviour in a market such as retail gasoline. The observation that national and regional petroleum companies, and some independent marketers, matched each other's prices in the price wars during the summer and fall of 1996 is not an indication of an agreement.

Conclusion

Price reductions which followed Ultramar's introduction of the Value Plus program were initiated by a variety of firms, including independents, and there was no evidence to suggest that there was an overall conspiracy to eliminate independents.

2. Price Discrimination

Competition Act

Section 50(1)(a) applies to the practice of granting discounts or other price concessions to one purchaser which are not available to competing purchasers, in respect of a sale of articles of like quality and quantity. An important part of the price discrimination provision is that differing discounts or price concessions can be given to different customers as long as these customers do not compete with each other. Furthermore, some types of transactions between affiliated companies would not be subject to this provision. For example, affiliates may transfer articles at a price reflective of their interests as a single economic entity. Such discounts or price concessions are not subject to the competitive conditions of the marketplace and would not be concessions in respect of a sale as required by the price discrimination provision.[1]

One of the six-resident applications alleged that Ultramar had violated the price discrimination provision of the *Act* by selling gasoline in different regions of Quebec at different prices. This would not be an offence unless these areas are in the same market, and competing purchasers in a market received different discounts for purchases of gasoline of like quantity and quality, at approximately the same time.

Evidence

Evidence obtained during these inquiries confirmed that retail gasoline markets are essentially local in nature and that retailers in different geographic areas do not compete with each other. There was no evidence found of price discrimination within local markets.

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[1] A detailed explanation of this section and related jurisprudence can be obtained from the Director's *Price Discrimination Enforcement Guidelines*, Minister of Supply and Services Canada, 1992.

Complaints were also received that Ultramar was offering its affiliated gasoline stations price supports during the price wars that occurred this past summer. Most of Ultramar's gasoline sales are done on a consignment basis, whereby Ultramar retains title to the gasoline up to the point of sale to consumers. Since there is no separate purchase by a retailer under these circumstances, the price discrimination provisions of the *Act* do not apply to such situations.

Conclusion

There is no evidence of an offence under the price discrimination provisions of the Act.

3. Predatory Pricing

Competition Act

Section 50(1)(b) of the *Competition Act*, which concerns regional predatory pricing, prohibits businesses from engaging in the policy of selling products in any area of Canada at prices lower than those charged elsewhere in Canada, if the sale's effect, tendency or design is to substantially lessen competition or eliminate a competitor. This provision of the *Act* is similar to the more general predatory pricing provisions of the Act, described below, in which a key concern for the Director is whether the conduct resulted, or is likely to result, in a substantial lessening of competition.

Section 50(1)(c) of the *Act* prohibits businesses from engaging in a policy of selling products at prices unreasonably low, if the sale has the effect or tendency of substantially lessening competition or eliminating a competitor, or is designed to have that effect.[2]

The jurisprudence associated with the predatory pricing provision is clear that one must look at all the surrounding circumstances of low prices to distinguish between vigorous price competition and prices that may be predatory.[3] For instance, the courts have considered whether low prices were defensive or offensive in nature, whether industry over-capacity encouraged low prices, whether low prices minimized losses, and the duration of the prices in question. An important point made by the court in the *Consumer Glass* case was that the law against predatory pricing should not interfere with legitimate competition. The Court observed, for example, that it is possible for a competitor to be eliminated from the market without offending the law:

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[2] A detailed explanation of this section and related jurisprudence can be obtained from the Director's *Predatory Pricing Enforcement Guidelines*, Minister of Supply and Services Canada, 1992.

[3] *R. v. Consumer Glass Co.* (1981), 330 R. (2d) 228 and *R. v. Hoffman La Roche* (1980), 28 O.R. (2d) 164; affirmed (1981), 33 O.R. (2d) 694 (C.A.).

> The whole object of competition is to maximize profits by taking as much business as possible away from rivals, and so the mere fact one competitor lowers prices so as to take business away from a rival to the point that the rival might be forced from the marketplace cannot, by itself, determine whether predatory pricing was involved.[4]

In general terms, predatory pricing occurs when a dominant firm prices below its costs over a long enough period of time that it forces the exit of some or all of its competitors. The purpose of predatory pricing is to allow the predator to raise its prices to monopoly levels. This, in turn, requires that barriers to entry be sufficiently high so that charging monopoly prices does not attract competitive entry before the predator has recouped its previous losses.

Evidence

In response to the six-resident applications, the inquiries analyzed the evidence to determine if there was proof that any one company, or more than one company acting in concert, was responsible for initiating and maintaining the price wars in retail gasoline markets in Quebec and the Maritime provinces last summer.

The evidence indicated that Ultramar's Value Plus marketing program was an independent business initiative designed to increase Ultramar's market share and improve the efficiency of the company's refinery and retail outlets. Ultramar lowered its prices by 1 cent per litre on June 18, 1996 and decreased the price difference between regular and premium grades of gasoline on June 20, 1996. While these pricing decisions may have been the catalyst for the price wars that broke out in the summer and fall of 1996, the evidence does not establish that Ultramar, or any other company, was responsible for the chain of price reductions that occurred. Rather, the evidence suggests that the price reductions were initiated by a variety of firms, including independents, and that Ultramar initiated price decreases a relatively small percentage of the time.

Evidence of comparatively low barriers to entry into retail gasoline markets further suggests that a strategy of predatory pricing would not substantially lessen competition, and indeed would make little economic sense, because a firm would not be able to increase its prices in the long run without attracting new competition.[5] Overall, the evidence indicated that the price wars that occurred in some markets were an indication of healthy competition for market share among gasoline companies in Quebec and the Maritime provinces. An increase in market share by one market participant necessarily entails a loss by another, unless the market is growing in size.

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[4] *Consumer Glass*, decision, *at 247*

[5] Some entry impediments are generally found to exist in most markets. Therefore, the analysis of entry conditions does not focus upon whether barriers to entry exist, but on whether entry conditions are sufficiently low that they constrain a dominant firm's (or firms') ability to significantly raise the market price.

Conclusion

No evidence was found that any specific company was primarily responsible for the price wars. Nor was there evidence to support a conclusion that Ultramar initiated and conducted the Value Plus program with the intent to eliminate other gasoline marketers. Indeed, the Value Plus promotion had many pro-competitive features, such as its lower prices to consumers, and an increase in the number of products available at gasoline stations.

4. Abuse of Dominant Position

Complaint

One of the six-resident applications alleged that Ultramar, as well as other national and regional petroleum companies, had abused their dominant position in the market by engaging in the following anti-competitive acts:

- squeezing the margins available to independent gasoline retailers,
- selling gasoline at a price lower than the acquisition cost,
- entering into a tacit agreement or arrangement, and
- engaging in price wars

all with the purpose of either disciplining or eliminating independent gasoline retailers.

Competition Act

The abuse provisions of the *Competition Act* are designed to remedy situations where one or more firms possess market power and engage in a practice of anti-competitive acts which have the effect of substantially lessening or preventing competition. To obtain a remedial order, the Director must establish before the Competition Tribunal that the following three elements in section 79(1) are met:

(a) that one or more persons substantially or completely control, throughout Canada or any area thereof, a class or species of business (in other words, the possession of market power in a particular market).

(b) that the dominant firm or firms engaged in a "practice of anti-competitive acts." An illustrative list of such acts is provided in section 78 of the legislation. The list is, however, not exhaustive.

(c) that the practice of anti-competitive acts, has had, is having, or is likely to have the effect of preventing or lessening competition substantially in a market.

The Competition Tribunal in its decision in *NutraSweet*, its first abuse of dominant position case, held that purpose is a necessary component of an anti-competitive act. This makes intent the key factor in determining whether an act is designed to harm competition or it is simply part of a legitimate business initiative. In other decisions, the Competition Tribunal noted that one must also look at the circumstances surrounding the acts and determine whether the acts can be explained by other plausible reasons.[6]

Evidence

No evidence, however, was found during the inquiries to support the allegations that the national and regional petroleum companies were squeezing the margins available to independent petroleum marketers with the intent of forcing the independents out of business. In fact, the margin between crude and retail prices has been shrinking for all firms, including national and regional petroleum companies, over the past decade. The evidence indicated that declining margins being earned by Canadian petroleum companies, both large and small, are the result of competition and the restructuring in this industry rather than by a scheme to squeeze the margins available to independent gasoline retailers. In other words, there is no basis to show that the margins of the independent gasoline marketers were being purposely squeezed when the margins available to the national and regional petroleum companies were decreasing as well.

The allegation that the national and regional petroleum companies were selling gasoline at prices lower than acquisition costs is based on the fact that for some periods in the summer and fall of 1996 some petroleum companies were selling gasoline for a lower price at the retail level than at wholesale. Evidence obtained, however, indicates that the price inversion in the summer and fall of 1996 occurred because the price wars at the retail level in Quebec and the Maritimes did not spill over into wholesale markets. The prices at the wholesale level reflect the New York Harbour wholesale price, a common benchmark for wholesale pricing in the eastern provinces, plus the transportation cost to different points.

The fact that gasoline wholesalers did not subsidize the prices of retailers during the price wars is not an issue under the abuse of dominant position provision unless it can be shown that the price inversions were designed to eliminate or discipline gasoline retailers. No such evidence was uncovered by the inquiries.

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[6] *Canada (Director of Investigation and Research) v. NutraSweet Co.*(1990), 32 C.P.R. (3d) 1 (Comp. Trib.); *Canada (Director of Investigation and Research) v. Laidlaw Waste Systems Ltd.* (1992), 40 C.P.R. (3d) 289 (Comp. Trib.); *Canada (Director of Investigation and Research) v. D & B Companies of Canada Ltd.* (1996), 64 C.P.R. (3d) 216) (Comp. Trib.).

Conclusion

There is no reason to believe that grounds exist for the making of a remedial order under section 79 of the *Act*.

Background Module

Misleading Advertising (Inquiry #4)

Complaint

One of the six-resident applications for inquiry alleged that Ultramar's Value Plus marketing campaign in the Province of Quebec misled the public because it gave the general impression that a "supposed" rationalization was at the origin of the efficiency gains achieved by the company and that the company's intention was to pass on these gains to consumers. The applicants alleged that the company was misleading the public in presenting a false image of itself and that its real intention was to eliminate competitors.

Competition Act (Misleading Advertising)

Paragraph 52 (1) (a) of the *Act* makes it an offence to make a representation to the public that is false or misleading in a material respect. If the representation could influence a consumer to buy the product or service advertised, it is material. To determine whether a representation is misleading, the courts consider the "general impression" it conveys, as well as its literal meaning.

Evidence

Ultramar Canada's Value Plus campaign received a great deal of publicity in the Province of Quebec, particularly because of the major gas war that resulted from introduction of the program. The company's advertisements made several claims: that the company had made efficiency gains in its processes and wanted to lower the price of premium gasoline to its customers; and that its prices would be "unbeatable."

The investigation established that the statements made by Ultramar were not misleading: efficiency gains contributed to the price reductions that were made; Ultramar lowered the retail price of premium gasoline as claimed; the company had a mechanism to verify and adjust prices upon request by participating stations or consumers; and Ultramar did match lower prices of its competitors.

Conclusion

The Director found that the claims made by Ultramar in the advertising campaign did not raise any issue under the *Act*.

Background Module

The Bureau

What is the Competition Bureau?

The Competition Bureau is the federal government agency responsible for enforcing the *Competition Act*. It is headed by the Director of Investigation and Research (the Director).

The Director conducts investigations and inquiries into suspected criminal violations and conduct contrary to the civil provisions of the *Competition Act*.

What is the *Competition Act*?

The *Competition Act* is a federal law governing business conduct in Canada. It applies to almost all businesses, regardless of size. The *Act's* purpose is to ensure that firms compete with one another and that the marketplace operates efficiently.

The *Competition Act* contains both criminal and civil law provisions.

Criminal offences under the *Act* include conspiracy, price maintenance, and bid-rigging, as well as misleading advertising and other deceptive marketing practices.

Civil provisions of the law cover such things as mergers, the abuse of a company's dominant position in the market, and refusal to supply or deal.

How are complaints filed?

If you believe that someone has contravened the *Competition Act* in some way and want to complain, you can telephone, fax or write to the Bureau:

Telephone:	
Toll Free	1-800 348-5358
National Capital Region	(819) 997-4282
TTD (for hearing impaired)	1-800 642-3844
Facsimile	(819) 997-0324
Fax-on-Demand	(819) 997-2869

By writing to:
Complaints and Public Enquiries Centre
Competition Bureau
Industry Canada
50 Victoria Street
Hull, Quebec
K1A 0C9

Who deals with complaints?

Depending on the nature of your complaint, it will be referred to one of the following Bureau branches:

- the Criminal Matters Branch investigates criminal offences relating to anti-competitive behaviour, i.e. conspiracy to fix prices, price maintenance and bid-rigging.

- the Marketing Practices Branch is responsible for the investigation of criminal offences relating to misleading advertising and other deceptive marketing practices.

- the Civil Matters Branch investigates competition cases reviewable by the Competition Tribunal, i.e., abuse of dominant position or refusal to supply. As well, it is responsible for the Director's appearances and interventions before regulatory boards and tribunals.

- the Mergers Branch is responsible for the review of merger transactions, including those that require prenotification filing.

- the Economics and International Affairs Branch co-ordinates the Bureau's work in the area of international cooperation and liaison with other government departments. It also provides economic advice to the other branches.

- the Compliance and Operations Branch is responsible for the development of the Bureau's enforcement policy, the Compliance Program, communications, and public education. It is also responsible for the planning, administration and informatics activities of the Bureau.

What happens after a complaint is filed?

If it is determined that the complaint warrants further investigation, the Director has many tools at his disposal to resolve competition issues, including:

- the legal authority to search and seize documents; to take sworn oral evidence; and, to demand the production of documents and records.

- the ability to refer criminal matters to the Attorney General of Canada who then decides whether to prosecute before the courts.

- the power to bring civil matters before the Competition Tribunal. The Tribunal is a specialized court, chaired by a judge, and independent of government.

- the authority to make presentations and intervene on matters of competition policy before federal and provincial boards, tribunals and commissions such as the Canadian Radio-Television and Telecommunications Commission (CRTC) and the Canadian Transportation Agency (CTA).

The Bureau conducts all of its investigations in private and takes seriously its commitment to keep confidential all of its communications with persons who provide information. However, if someone has important evidence about an offence under the *Act*, that person may be asked to testify if the matter continues to court or before the Competition Tribunal.

Competition Bureau

News Release

COMPETITION BUREAU WILL REQUEST A TRIBUNAL CONSENT ORDER WITH RESPECT TO ADM'S ACQUISITION OF FLOUR MILLS FROM MAPLE LEAF MILLS INC.

OTTAWA, February 28, 1997 — Konrad von Finckenstein, Q.C., Director of Investigation and Research under the *Competition Act*, today responded to the closing of the transaction that involved the acquisition by ADM Agri-Industries Ltd. (ADM) of Toronto of certain flour milling assets of Maple Leaf Mills Inc. (MLM) of Mississauga. ADM is acquiring MLM wheat flour mills in Calgary, Port Colborne and two mills in Montreal. ADM and MLM are the two largest wheat flour millers in Canada.

The Director, with the agreement of ADM, will be filing an application for a Consent Order before the Competition Tribunal shortly, seeking the divestiture of the MLM Oak Street mill in Montreal and requiring certain supply obligations by ADM to the eventual purchaser of the Oak St. mill. These remedies are aimed at resolving the substantial lessening of competition in the supply of bulk hard wheat flour in Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland ("Quebec/Atlantic Canada") which would likely arise from the merger. The terms of the Consent Order are subject to approval by the Tribunal. Pending the filing of the application, the parties were permitted to proceed with the merger following the receipt of an undertaking from ADM to hold separate and apart from ADM the mill which is to be divested.

In the Director's view if the transaction were permitted to proceed as structured, ADM would likely be able to significantly raise prices for hard wheat flour in Quebec/Atlantic Canada and consumers in these locations would likely pay more for bread and other related bakery products.

In Ontario, the Director has concluded that the U.S. Milling Company in Buffalo would be a significant competitive presence in the foreseeable future. The Competition Bureau also did not find that the merger would substantially lessen or prevent competition in Western Canada in part due to planned or actual expansion by other flour mills in this market.

The Competition Bureau's review of the transaction involved the assistance of economic and industry experts and the cooperation of the parties. Information was also obtained from the flour milling industry, including Canadian bakers, Canadian and U.S. flour mills, associations and others related to the industry.

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For more information, please contact :

Cécile Suchal
(819) 953-5303

Release 7577-c

News Release

PREMIER HEALTH CLUB FOUND GUILTY OF MISLEADING ADVERTISING UNDER THE *COMPETITION ACT*

OTTAWA, February 25, 1997 — The Director of Investigation and Research under the *Competition Act,* Konrad von Finckenstein, Q.C., announced today that 891249 Ontario Limited, carrying on business as Premier Health Club pleaded guilty to the commission of offences contrary to sections 52(1)(a) and 59(1)(a) of the misleading advertising provisions of the *Competition Act.*

A fine of $30,000 was imposed on the company by the Provincial Court of Ontario, in Toronto.

The illegal conduct involved the promotion of membership for health clubs through scratch and win cards where the "winners", to avail themselves of the vacation prizes, had to join the health club for a year at a total cost of $402.00 and had to pay other associated costs with the vacation which were not disclosed. The questioned marketing practices related to various distributions of 500,000 contest cards for the promotion of several fitness and health clubs in Greater Metropolitan Toronto.

In addition to the fine, a Prohibition Order of five years was imposed on the company and any related companies and on each of their directors, officers and employees. The terms of the Order require, among other things, that the company and its directors do not conduct a promotional contest without adequate and fair disclosure of the number and approximate value of the prizes. The Order also prohibits the promotion of health clubs' memberships by misrepresenting the actual cost of the registration fees or by giving a false impression that such fees have been waived or reduced because a potential consumer has won a contest.

- 30 -

For more information, please contact:
Cécile Suchal
(819) 953-5303

Release 7574-e

Communiqué

PREMIER HEALTH CLUB RECONNUE COUPABLE D'UNE INFRACTION DE PUBLICITÉ TROMPEUSE RELATIVE À LA *LOI SUR LA CONCURRENCE*

OTTAWA, le 25 février 1997 — Le directeur des enquêtes et recherches en vertu de la *Loi sur la concurrence*, M[e] Konrad von Finckenstein, c.r., a annoncé aujourd'hui que 891249 Ontario Limited, faisant affaires sous le nom de Premier Health Club, a reconnu sa culpabilité à des infractions aux alinéas 52(1)*a)* et 59(1)*a)* de la *Loi sur la concurrence* relatifs à la publicité trompeuse.

Une amende de 30 000 $ a été imposée à la compagnie par la Cour provinciale de l'Ontario à Toronto.

Le comportement illégal avait trait à la promotion d'abonnements à des clubs de santé au moyen de cartes à gratter. Les «gagnants» devaient souscrire un abonnement d'un an à un club de santé, au coût total de 402 $, pour obtenir les vacances offertes comme prix, et ils devaient acquitter, à l'égard de ces vacances des frais connexes non divulgués. Les pratiques commerciales douteuses se rapportaient à diverses campagnes de distribution de 500 000 cartes à gratter, dans le cadre de la promotion de plusieurs clubs de santé dans la région métropolitaine de Toronto.

En plus des amendes, une ordonnance d'interdiction de cinq ans a été imposée à la compagnie et à toutes autres compagnies affiliées, ainsi qu'à tous les administrateurs, dirigeants et employés. Selon cette ordonnance, entre autres, la compagnie et ses administrateurs ne doivent pas organiser de concours publicitaire sans s'assurer que le nombre et la valeur approximative des prix sont convenablement et loyalement divulgués. L'ordonnance interdit aussi la promotion d'abonnement à des clubs de santé en faisant des déclarations trompeuses quant au coût réel des frais d'inscription ou en donnant une fausse impression que ces frais ont été enlevés ou réduits parce qu'un consommateur éventuel a gagné un concours.

- 30 -

Pour plus de renseignements, veuillez communiquer avec :

Cécile Suchal
(819) 953-5303

Release 7574-f

COMPETITION COMMUNIQUÉ

Volume 3, No. 1
2. 18. 97

COMPETITION BUREAU ALLOWS MANUFACTURING COMPANIES OF METAL VACUUM CLOSURES TO MERGE

The Director of Investigation and Research of the Competition Bureau will not challenge the acquisition of the shares of Carnaudmetalbox, S.A. ("CMB") by Crown Cork and Seal Company, Inc. ("CROWN U.S."). These firms controlled the only two major Canadian companies engaged in the manufacture and sale of metal vacuum closures as well as the supply and servicing of related packaging equipment.

Metal vacuum closures are metallic caps used with glass containers to ensure that a tight seal and vacuum are formed; this seal is what guarantees the freshness of the jar's contents and protects against spoilage. These metallic caps are used, for the most part, in the food and beverage industries.

Crown U.S. owns Crown Cork & Seal Canada Inc. ("Crown"), while CMB's wholly owned subsidiary was Anchor Cap and Closure Corporation of Canada Limited ("Anchor"). Anchor used metal vacuum closure technology that was owned by the CMB group of companies. Although Crown had no such ownership in the technology, the company did have a Licensing Agreement with White Cap, Inc. ("White Cap"), a U.S.-based company and the largest manufacturer of metal vacuum closures in North America. This Licensing Agreement prohibited White Cap from selling the closures in Canada without first obtaining Crown's consent, and prohibited Crown from selling in the United States without White Cap's consent.

The Competition Bureau, after having analyzed the likely effects the merger would have on competition, concluded that the market power of the merged firm raised serious concerns under the *Competition Act*. The Bureau's analysis revealed that there was no acceptable substitute for metal vacuum closures and that customers for the product would not be able to turn to another major supplier in response to a possible price increase imposed by the newly-merged firm.

To address the concerns of the Competition Bureau, the parties entered into an amendment of the Licensing Agreement in which Crown agreed to dispose of certain intellectual property rights as well as other rights contained in the agreement with White Cap.

(over)

Why is this decision important to you?

This decision means that Canadian metal vacuum closure customers are now free to purchase closures from White Cap, Crown or any other supplier, thereby guaranteeing a second source of supply and encouraging competitive pricing of the product.

Under the *Competition Act*, it does not matter whether you are a small, medium or large company; if you are competing or purchasing product in a market where you believe that a newly-merged firm has the potential to increase prices, or abuse its position* by engaging in anti-competitive acts, the Director of Investigation and Research has the power to bring the matter before the Competition Tribunal. The Tribunal has the option to prevent, or remedy the effects of a merger which substantially prevents or lessens competition by issuing a remedial order that will restore competition in the Canadian marketplace.

However, you should also know that when a newly-merged firm dominates a particular market, it does not mean necessarily that it has contravened the *Competition Act*. Sometimes, companies have to become large in order to compete with foreign firms and achieve lower production costs. What may be a concern under the *Act*, is when a newly-merged firm exploits its market power in a way that hurts consumers, other businesses, and competition in the marketplace.

The *Competition Act* provides a three-year period during which the Director can challenge a merger transaction.

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*The Competition Bureau's Public Education Initiative publishes a pamphlet entitled **When a Company abuses its dominant position** and another called **Restricting the supply and use of products.** To obtain a copy of these as well as others in the series, contact the Complaints and Public Enquiries Centre at one of the numbers listed below.

This newsletter is intended only as a guide. If you require any assistance or further information, please contact your lawyer or the Complaints and Public Inquiries Centre, 50 Victoria Street, Hull, Quebec, K1A 0C9, (toll-free) 1-800 348-5358, National Capital Region (819) 997-4282, TDD 1-800 642-3844, Facsimile (819) 997-0324, Fax-on-Demand (819) 997-2869.

Competition Bureau

News Release

MITSUBISHI PAPER MILLS, LTD. PLEADS GUILTY UNDER THE *COMPETITION ACT* AND PAYS $850,000 FINE IN THE THERMAL FAX PAPER INQUIRY

OTTAWA, February 17, 1997 — Konrad von Finckenstein, Q.C., Director of Investigation and Research under the *Competition Act*, announced today that Mitsubishi Paper Mills, Ltd. pleaded guilty to two charges under the *Competition Act*; one under section 45, the conspiracy provisions of the *Act*, for fixing prices in the thermal facsimile paper; and one charge under section 61 for refusing to supply thermal facsimile paper to a Vancouver distributor because of the latter's low pricing policy.

The company was convicted in the Federal Court of Canada and sentenced to a fine of $850,000. The Court also issued a prohibition order against the company prohibiting further anticompetitive activity.

After an extensive investigation in Canada and abroad, conducted in cooperation with the U.S. Justice Department, Antitrust Division, it was concluded that the company, based in Japan, had participated in an illegal conspiracy in 1991, to fix prices in Canada and the United States for thermal fax paper and had threatened to refuse to supply thermal fax paper to a Canadian distributor based in Vancouver.

With this conviction a total of $3.45 million in fines has been imposed in Canada on Canadian, American and Japanese companies involved in the thermal fax paper conspiracy. The investigation into the conspiracy involving other players in this industry is ongoing.

- 30 -

For more information, please contact :

Cécile Suchal
(819) 953-5303

Release 7568-e

Communiqué

ENQUÊTE SUR LE PAPIER THERMOSENSIBLE POUR TÉLÉCOPIEUR : MITSUBISHI PAPER MILLS, LTD. RECONNAÎT SA CULPABILITÉ À DEUX INFRACTIONS À LA *LOI SUR LA CONCURRENCE* ET PAIE UNE AMENDE DE 850 000 $

OTTAWA, le 17 février 1997 — M^e^ Konrad von Finckenstein, c.r., directeur des enquêtes et recherches en vertu de la *Loi sur la concurrence*, a annoncé aujourd'hui que Mitsubishi Paper Mills, Ltd. a reconnu sa culpabilité à deux infractions à la *Loi sur la concurrence,* soit une accusation de complot pour avoir fixé les prix dans l'industrie du papier thermosensible pour télécopieur, portée en vertu de l'article 45 de la *Loi* et une accusation en vertu de l'article 61 pour avoir refusé de fournir du papier thermosensible pour télécopieur à un distributeur de Vancouver en raison du régime de bas prix de ce dernier.

La Cour fédérale du Canada a condamné la société à une amende de 850 000 $. Elle a aussi rendu une ordonnance d'interdiction interdisant à la société de poursuivre ses pratiques anticoncurrentielles.

Une enquête approfondie au Canada et à l'étranger, effectuée en collaboration avec la Division antitrust du département de la Justice américain, a permis de conclure que la société, établie au Japon, avait participé, en 1991, à un complot illégal visant à fixer le prix du papier thermosensible pour télécopieur sur les marchés canadien et américain et avait menacé de refuser de fournir du papier thermosensible pour télécopieur à un distributeur de Vancouver.

Cette condamnation porte le total des amendes recueillies dans ce complot à 3,45 $ millions imposées au Canada à des sociétés canadiennes, américaines et japonaises. L'enquête concernant ce complot se poursuit.

- 30 -

Pour plus de renseignements, veuillez communiquer avec :

Cécile Suchal
(819) 953-5303

Release 7568-f

Competition Bureau

News Release

RECORD FINE OF $550,000 IMPOSED ON INDIVIDUAL FOR CONSPIRACY OFFENCE UNDER THE *COMPETITION ACT*

OTTAWA, January 29, 1997 -- The Acting Director of Investigation and Research under the *Competition Act,* Francine Matte, Q.C., announced today that Mr. Pierre Paré, a former senior official with Gestion des Rebuts DMP Inc., has pleaded guilty to one count of conspiracy to unduly lessen competition, and must pay a record fine of $550,000 under the *Competition Act*.

The Court also imposed a one year jail sentence to be served in the community on Mr. Serge Brière and Mr. Robert Caron, both formerly with Gestion des Rebuts DMP Inc.

This matter follows the guilty plea by Gestion des Rebuts DMP Inc., in April 1996 for a related conspiracy offence; the company was fined $1,950,000.

The offence involved an agreement between competitors to share the market for the hauling and disposal of commercial waste in the Mauricie region of Québec between 1989 and 1992. The victims of this conspiracy were businesses such as restaurants, corner stores, garages and shopping centres, which lease commercial waste containers.

Mr. Justice Lévesque of the Québec Superior Court also sentenced Mr. Paré to perform 100 hours of community service. In addition, a Prohibition Order was imposed on the three individuals which requires them to comply with the *Act* for a period of 10 years.

"Small businesses were denied competition in the commercial waste market because of an agreement that existed among the competitors," said Ms. Matte. "This guilty plea sends a strong warning to individuals who seek to avoid liability for *Competition Act* offences. Individuals cannot promote price fixing and then seek refuge behind a corporation."

The inquiry began in 1992 with the cooperation of certain individuals involved in the conspiracy.

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For more information, please contact :

Cécile Suchal
(819) 953-5303

Release 7552-e

Communiqué

AMENDE RECORD DE 550 000 $ IMPOSÉE À UN INDIVIDU POUR COMPLOT EN VERTU DE LA *LOI SUR LA CONCURRENCE*

OTTAWA, le 29 janvier 1997 -- La directrice intérimaire des enquêtes et recherches nommée en vertu de la *Loi sur la concurrence*, M^e^ Francine Matte, c.r., a annoncé aujourd'hui qu'un ancien cadre de Gestion des Rebuts DMP Inc., M. Pierre Paré, a plaidé coupable à une accusation de complot pour avoir réduit indûment la concurrence et devra payer une amende record de 550 000 $ en vertu de la *Loi sur la concurrence.*

La Cour a aussi imposé une peine de 12 mois d'emprisonnement à être purgée au sein de la collectivité à Messieurs Serge Brière et Robert Caron, anciens employés de la compagnie Gestion des Rebuts DMP Inc.

Cette affaire fait suite au plaidoyer de culpabilité de Gestion des Rebuts DMP Inc., qui en avril 1996, avait plaidé coupable à une infraction semblable de complot et avait payé une amende de 1 950 000 $.

L'infraction concernait une entente entre concurrents pour partager le marché de la collecte des déchets dans le marché commercial de la région de la Mauricie au Québec de 1989 à 1992. Les victimes du complot étaient notamment des entreprises (restaurants, dépanneurs, garages, centres commerciaux, etc.) qui louent des contenants à déchets.

Monsieur le juge Lévesque de la Cour supérieure du Québec a également imposé à M. Paré une peine de 100 heures de travaux communautaires. Il a également émis une ordonnance d'interdiction obligeant les trois (3) prévenus à respecter la *Loi* pendant une période de 10 ans.

«Les petites entreprises ont été privées de concurrence dans le marché de la collecte de déchets commerciaux en raison d'une entente qui existait entre les concurrents», a déclaré M^e^ Matte. «Ce plaidoyer de culpabilité envoie un sérieux message aux individus qui cherchent à se soustraire à leurs responsabilités suite à des infractions à la *Loi sur la concurrence*. Les individus ne peuvent promouvoir la fixation de prix et se cacher derrière le voile corporatif».

L'enquête a débuté en 1992 avec la collaboration de certains individus impliqués dans le complot.

- 30 -

Pour plus de renseignements, veuillez communiquer avec :

Cécile Suchal
(819) 953-5303

Release 7552-f

News Release

CONSENT ORDER SOUGHT FROM COMPETITION TRIBUNAL IN B. C. SHIP BERTHING AND BARGING CASE

OTTAWA, January 13, 1997 -- Francine Matte Q.C., Acting Director of Investigation and Research under the *Competition Act*, filed an application today for a Consent Order with the Competition Tribunal with respect to ship berthing and wood chip and covered barging in British Columbia.

This case concerns the provision of ship berthing services at Burrard Inlet and Roberts Bank, and the provision of wood chip and covered barging services in B.C. coastal waters. Covered barging involves the marine movement of pulp and paper, and newsprint.

An application had been filed with the Tribunal on March 1, 1996 opposing the October 13, 1994 merger whereby Mr. Dennis Washington, the owner of C.H. Cates & Sons Ltd., indirectly acquired a significant interest in Seaspan International Ltd. and Mr. Washington's further acquisition of control of Seaspan in June 1996. The application also opposed the June 30, 1995 acquisition by Mr. Washington of Norsk Pacific Steamship Company, Limited.

The 1996 application alleged that the mergers prevented or lessened, or were likely to prevent or lessen, competition substantially in the provision of tug boat services used to berth ships in the Port of Vancouver, and in the provision of wood chip and covered barging services in and around B.C.'s coastal waters.

The terms of the proposed Consent Order, which were agreed to by Mr. Washington and the Acting Director and which are subject to approval by the Tribunal, involve the divestiture of certain ship berthing and barging assets.

This application and draft Consent Order are on the public record and are available from the Competition Tribunal.

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For more information, please contact:
Cecile Suchal, (819) 953-5303

Release\7545-e.wpd

Communiqué

ORDONNANCE PAR CONSENTEMENT DEMANDÉE AU TRIBUNAL DE LA CONCURRENCE DANS L'AFFAIRE DES SERVICES MARITIMES DE REMORQUAGE ET DES SERVICES DE TRANSPORT PAR BARGE EN COLOMBIE-BRITANNIQUE

OTTAWA, le 13 janvier 1997 - M[e] Francine Matte, c.r., directrice intérimaire des enquêtes et recherches nommée en vertu de la *Loi sur la concurrence*, a déposé aujourd'hui une demande d'ordonnance par consentement auprès du Tribunal de la concurrence en ce qui concerne les services maritimes de remorquage et à la prestation de services de transport par barge protégée et par barge pour copeaux en Colombie-Britannique.

L'affaire se rapporte à la prestation de services maritimes de remorquage à Burrard Inlet et Roberts Bank, et à la prestation de services de transport par barge protégée et par barge pour copeaux dans les eaux côtières de la Colombie-Britannique. Les barges protégées servent au transport de pâte et papier et de papier journal par la voie maritime.

Une demande avait été déposée le 1[er] mars 1996 auprès du Tribunal contestant le fusionnement du 13 octobre 1994 par lequel M. Dennis Washington, propriétaire de C.H. Cates & Sons Ltd., avait acquis indirectement un intérêt important dans Seaspan International Ltd. et l'acquisition plus tard du contrôle de Seaspan par M. Washington, en juin 1996. Cette demande contestait également l'acquisition du 30 juin 1995 de la Norsk Pacific Steamship Company, Limited par M. Washington.

La demande de 1996 alléguait que ces fusionnements avaient empêché ou diminué sensiblement la concurrence ou auraient vraisemblablement cet effet en ce qui a trait aux services maritimes de remorquage dans le port de Vancouver, de même qu'aux services de transport de copeaux par barge et de transport par barge protégée dans les eaux côtières de la Colombie-Britannique.

Les termes de l'ordonnance par consentement proposée qui ont été acceptés par M. Washington et la Directrice intérimaire et qui sont sujets à l'approbation du Tribunal, prévoient le dessaisissement de certains éléments d'actif en ce qui a trait aux services maritimes de remorquage et au transport par barge.

Cette demande et le projet d'ordonnance par consentement sont des documents publics et les personnes intéressées peuvent les obtenir en s'adressant au Tribunal de la concurrence.

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Pour obtenir plus de renseignements, veuillez communiquer avec :
Cécile Suchal (819) 953-5303

Release\7545-f.wpd

Competition Bureau

News Release

FINES AND COMMUNITY SERVICE IMPOSED FOR PRICING OFFENCES UNDER THE *COMPETITION ACT*

OTTAWA, November 6, 1996 — Francine Matte, Q.C., Acting Director of Investigation and Research under the *Competition Act*, announced today that sentences were imposed against another principal accused in the Sherbrooke Québec Driving Schools case. The announcement follows the Quebec Superior Court's decision to accept guilty pleas on November 1, 1996 and to issue reasons in the case today.

Mr. Yves Aubé and his companies, École de conduite Tecnic Aubé Inc., 2172-3572 Québec Inc. and École de conduite Tecnic Estrie Inc., pleaded guilty to all three counts involving price-fixing, predatory pricing and regional predatory pricing offences under the *Act*. Groupe Lauzon Inc. also pleaded guilty to the offence of price-fixing. These pleas were entered at the end of the first week of their trial.

Mr. Justice Réjean Paul sentenced Mr. Aubé to 100 hours of community service and imposed a fine of $10,000 payable within 30 days. In default of payment, Mr. Aubé would be subject to a prison term of four months. His companies were also fined $40,000, payable within 30 days.

The Court imposed prohibition orders lasting 15 years against repetition of the offences on the above accused and also on École de conduite Asbesterie Inc. and Mr. André Comeau of Groupe Lauzon Inc.

"This resolution demonstrates that owners or managers of businesses can be personally held accountable for offences committed under the *Competition Act*", said Ms. Matte. "This is the first time that an individual has been sentenced to community service by the Court for price-fixing and predatory pricing offences under the *Act*".

After an extensive criminal investigation, it was concluded that a number of sections of the *Competition Act* had been breached in the Sherbrooke driving school market. The charges against the above accused cover activity contrary to the *Competition Act* in the Sherbrooke area during 1987.

This conviction is part of an ongoing criminal prosecution which included a jury conviction and a one-year prison sentence handed down by the Court against Mr. Jacques Perreault, on September 9, 1996.

- 30 -

For more information, please contact:

Cécile Suchal
(819) 953-5303

Release 7520-e

Bureau de la concurrence

Communiqué

AMENDES ET SERVICE COMMUNAUTAIRE IMPOSÉS POUR DES INFRACTIONS DE FIXATION DES PRIX EN VERTU DE LA *LOI SUR LA CONCURRENCE*

OTTAWA, 6 novembre 1996 — M^e^ Francine Matte, c.r., directeur intérimaire des enquêtes et recherches en vertu de la *Loi sur la concurrence*, a annoncé aujourd'hui qu'un autre des principaux accusés dans l'affaire des écoles de conduite de Sherbrooke, au Québec, a plaidé coupable et que sa sentence a été prononcée. Le communiqué fait suite à la décision de la Cour supérieure du Québec d'accepter les plaidoyers de culpabilité du 1^er^ novembre 1996 et d'expliquer aujourd'hui les motifs de l'affaire.

M. Yves Aubé et ses compagnies, l'École de conduite Tecnic Aubé Inc., 2172-3572 Québec Inc. et l'École de conduite Tecnic Inc., ont plaidé coupables à trois chefs d'accusation ayant trait à la fixation des prix et à des pratiques de prix d'éviction et de prix d'éviction régionaux en vertu de la *Loi*. Le Groupe Lauzon Inc. a aussi plaidé coupable à un chef d'accusation de fixation des prix. Les accusés ont inscrit ces plaidoyers de culpabilité à la fin de la première semaine de leur procès.

Le juge Réjean Paul a condamné M. Aubé à 100 heures de service communautaire et lui a imposé une amende de 10 000 dollars payable dans un délai de 30 jours. À défaut de paiement, M. Aubé devra passer quatre mois en prison. Ses compagnies ont été condamnées à une amende de 40 000 dollars payable dans un délai de 30 jours.

La Cour a imposé des ordonnances d'interdiction d'une durée de 15 ans aux accusés susmentionnés ainsi qu'à l'École de conduite Asbesterie Inc. et à M. André Comeau, du Groupe Lauzon Inc.

«Cette sentence montre que les propriétaires et les gérants d'entreprise peuvent être tenus personnellement responsables des infractions commises en vertu de la *Loi sur la concurrence*,» a déclaré M^e^ Matte. «C'est la première fois qu'une personne est condamnée à faire du service communautaire par un tribunal pour des infractions relatives à la fixation des prix et à la pratique de prix d'éviction en vertu de la *Loi*.»

Une enquête criminelle approfondie a permis de conclure qu'un certain nombre d'articles de la *Loi sur la concurrence* ont été violés dans le marché des écoles de conduite de Sherbrooke, au Québec, en 1987.

Cette condamnation découle de poursuites criminelles en cours durant lesquelles M. Jacques Perreault a été reconnu coupable par un jury et a été condamné à un an de prison par la Cour, le 9 septembre 1996.

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Pour plus de renseignements, veuillez contacter :
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Release 7520-f

Competition Bureau

News Release

SENTENCE IMPOSED IN COMPRESSED GAS CONSPIRACY BRINGS TOTAL FINES TO RECORD $6.46 MILLION

OTTAWA, October 10, 1996 — The Acting Director of Investigation and Research under the *Competition Act,* Francine Matte, Q.C., announced today that a total of $ 6.46 million in fines has been imposed in the compressed gas conspiracy case.

The accused, Mr. John T. Tindale, the last of seven executives charged in this case, was found guilty yesterday by Mr. Justice Matlow of the Ontario Court of Justice (General Division) of having entered into an agreement to set prices in the compressed gas industry and fined $35,000.

After six years of proceedings, this very significant conspiracy case has been brought to a successful conclusion by the Competition Bureau and the Attorney General.

The sentence was imposed against Mr. Tindale, the former President of Canadian Oxygen Limited (Canox), at the conclusion of his trial. The fine came as a result of charges being laid against the individual under s. 45 (1) (c) of the *Competition Act*.

"The record fines and the fact that seven executives have been convicted for their roles in the conspiracy demonstrate that executives must take responsibility for their decisions when operating outside the *Competition Act*," stated Ms. Matte. "Consumers need to know that competition has been restored in this market as a result of this case."

This inquiry began on May 10, 1990 after the Director had examined a market-sharing and price-fixing arrangement among the five major suppliers of bulk liquid oxygen in Canada. On May 23, 1990 the inquiry was expanded to include nitrogen, carbon dioxide and hydrogen. The conspiracy took place between June 1, 1989 and May 31, 1990.

Compressed gases are widely used for medical purposes as well as industrial applications.

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Release 7497.e

Communiqué

UNE PEINE IMPOSÉE POUR COMPLOT DANS LE DOMAINE DES GAZ COMPRIMÉS PORTE LES AMENDES À UN TOTAL RECORD DE 6 460 MILLIONS $

OTTAWA, le 10 octobre 1996 — Le directeur intérimaire des enquêtes et recherches en vertu de la *Loi sur la concurrence*, M^e^ Francine Matte, a annoncé aujourd'hui que des amendes totales de 6 460 millions de dollars ont été imposées dans une affaire de complot dans le domaine des gaz comprimés.

L'accusé, M. John T. Tindale, le dernier des sept cadres impliqués dans ce dossier, a été trouvé coupable hier par Monsieur le juge Matlow de la Cour de justice de l'Ontario (Division générale) d'avoir conclu une entente de fixation de prix dans l'industrie des gaz comprimés et une amende de 35 000 $ lui a été imposée.

Après six années de procédure, le Bureau de la concurrence et le procureur général ont mené à bon terme cette importante affaire de complot.

C'est à la suite d'un procès que cette amende a été imposée à M. Tindale, l'ancien président de la Compagnie canadienne d'oxygène Limitée (Canox). Elle résulte des accusations portées contre cet individu en vertu de l'alinéa 45(1)*(c)* de la *Loi sur concurrence*.

« Les amendes records et la condamnation de sept cadres pour leur rôle dans le complot prouvent que les cadres doivent assumer la responsabilité de leurs décisions lorsqu'ils agissent contre la *Loi sur la concurrence*, » a déclaré M^e^ Matte. « Les consommatrices et les consommateurs ont besoin de savoir que, grâce à cette affaire, la concurrence est de retour sur ce marché. »

L'enquête a commencé le 10 mai 1990 après l'examen par le Directeur d'une entente de partage de marché et de fixation de prix parmi les cinq plus grands fournisseurs d'oxygène liquide en vrac au Canada. Le 23 mai 1990, l'enquête s'est étendue à l'azote, au dioxyde de carbone et à l'hydrogène. Le complot a duré du 1^er^ juin 1989 au 31 mai 1990.

Les gaz comprimés sont grandement utilisés à des fins médicales ainsi que dans le domaine industriel.

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Release 7497.f

Competition Bureau

News Release

COMPETITION BUREAU HOSTS THE INTERNATIONAL MARKETING SUPERVISION NETWORK MEETING

OTTAWA, September 24, 1996 -- Francine Matte, Q.C., Acting Director of Investigation and Research under the *Competition Act*, announced today that the Competition Bureau will be hosting the fifth annual meeting of the International Marketing Supervision Network in Ottawa from September 25 to 27, 1996.

In addition to hosting the meeting of the Network, the Competition Bureau's Deputy Director of Investigation and Research (Marketing Practices), Rachel Larabie-LeSieur, will assume its presidency for one year. This will be the first time that the annual meeting of the network is taking place, and its secretariat established, outside the European continent.

"While the great majority of commercial activities are legitimate in nature, we must be aware that the increasingly international nature of business activity creates greater potential for international deceptive marketing practices," said Ms. Matte. "As a result, the global marketplace and the increase in cross-border commercial transactions have created an urgent need for the development of a proactive and cooperative approach to dealing with problems arising from unfair trade practices."

The Network consists of an alliance of organizations from member countries of the Organisation for Economic Co-operation and Development (OECD), and from non-member countries with observer status in the OECD involved with the promotion and enforcement of fair trading practices.

The mandate of the Network is to share information on cross-border activities that impact on markets and to encourage cooperation to explore opportunities for enforcement action. Telemarketing, deceptive mail solicitations and international resale of lottery tickets are among the topics for discussion at this meeting.

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Release 7482.e

Communiqué

LE BUREAU DE LA CONCURRENCE ACCUEILLE LES PARTICIPANTS À LA RÉUNION DURÉSEAU INTERNATIONAL DE CONTRÔLE DE LA COMMERCIALISATION

OTTAWA, 24 septembre 1996 — M[e] Francine Matte, c.r., directeur intérimaire des enquêtes et recherches aux termes de la *Loi sur la concurrence*, a annoncé aujourd'hui que le Bureau de la concurrence accueillera les participants à la cinquième réunion annuelle du Réseau international de contrôle de la commercialisation, à Ottawa, du 25 au 27 septembre 1996.

En plus de voir à la tenue de la réunion, le sous-directeur des enquêtes et recherches (Pratiques commerciales) du Bureau de la concurrence, Rachel Larabie-LeSieur, assumera la présidence du Réseau pendant une année. C'est la première fois que la réunion annuelle du Réseau se tient à l'extérieur du continent européen. De plus, le fait que le secrétariat soit établi à l'extérieur du continent européen constitue une première.

«Bien que la grande majorité des activités commerciales soient légitimes, nous devons tenir compte du fait que la nature de plus en plus internationale des activités commerciales crée un risque accru de pratiques commerciales déloyales d'une ampleur internationale», a déclaré M[e] Matte. «Avec le marché mondial et l'augmentation des transactions commerciales transfrontalières, il est maintenant urgent d'élaborer une démarche proactive et coopérative en vue de régler les problèmes liés aux pratiques commerciales déloyales.»

Le Réseau est composé d'une alliance d'organisations des pays membres de l'Organisation de Coopération et de Développement Économiques (OCDE) ainsi que de pays non membres ayant le statut d'observateur à l'OCDE qui ont pour mission de promouvoir et de faire respecter des pratiques commerciales équitables.

Le mandat du Réseau consiste à partager de l'information sur les activités transfrontalières qui influent sur le marché et à encourager la coopération au chapitre d'éventuelles mesures de mise en application de la loi. Le télémarketing, les sollicitations postales trompeuses et la revente à l'échelle internationale de billets de loterie sont certains des sujets qui seront abordés lors de la réunion.

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Release 7482.f

Competition Bureau

News Release

JOINT CANADA-U.S. TASK FORCE ON DECEPTIVE MARKETING PRACTICES ESTABLISHED

OTTAWA, September 10, 1996 -- Francine Matte, Q.C., Acting Director of Investigation and Research under the *Competition Act*, announced today that the Competition Bureau and the United States Federal Trade Commission signed an agreement establishing a Canadian-U.S. Task Force on Cross-Border Deceptive Marketing Practices.

The primary purpose of the Task Force is to provide a framework to promote cooperation between law enforcement agencies in Canada and in the U.S. with respect to deceptive marketing practices with a transborder component. The Task Force will operate within the confines of the laws, policies and practices of each country.

"The agreement will allow law enforcement agencies from both countries to combat more effectively the growing trend towards cross-border deceptive marketing practices directed at consumers and businesses," said Ms. Matte. "Amongst other things, the Task Force will focus on operations based in either country which target the residents of the other country."

The agreement follows on the signing on August 3, 1995 of the Canada-U.S. Competition Policy Agreement by the Government of Canada and the Government of the United States of America. That agreement established a framework for closer relations between Canada and the U.S. regarding the enforcement of their competition and deceptive marketing practices laws.

The agreement was signed and the announcement was made in Burlington, Vermont at an important meeting of Canadian and U.S. federal, provincial and state law enforcers of cross-border deceptive and fraudulent telemarketing.

Signing on behalf of the Competition Bureau was Rachel Larabie-LeSieur, Deputy Director of Investigation and Research (Marketing Practices), and on behalf of the FTC was Jodie Bernstein, Director, Bureau of Consumer Protection.

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Release 7473.e

Communiqué

CRÉATION D'UN GROUPE DE TRAVAIL CONJOINT CANADA-ÉTATS-UNIS SUR LES PRATIQUES COMMERCIALES DÉLOYALES

OTTAWA, le 10 septembre 1996 -- M[e] Francine Matte, c.r., directeur intérimaire des enquêtes et recherches aux termes de la *Loi sur la concurrence*, a annoncé aujourd'hui que le Bureau de la concurrence et la Federal Trade Commission des États-Unis venaient de signer une entente visant à mettre sur pied un groupe de travail Canada-É.U. sur les pratiques commerciales déloyales outre-frontière.

Le groupe de travail a pour but principal de définir un cadre afin de favoriser la collaboration entre les organismes d'application de la loi des deux pays pour ce qui est des pratiques commerciales déloyales ayant un volet transfrontalier. Le groupe de travail évoluera dans les limites des lois, politiques et pratiques en vigueur dans chacun des pays.

«L'entente permettra aux organismes de mise en application de la loi des deux pays de lutter plus efficacement contre la tendance de plus en plus répandue qui consiste à utiliser outre-frontière des pratiques commerciales déloyales visant les consommateurs, les consommatrices et les entreprises», a déclaré M[e] Matte. «Le groupe de travail mettra l'accent, entre autres, sur les activités émanant de l'un ou l'autre des pays et visant les résidents de l'autre pays.»

L'entente fait suite à la signature par le gouvernement du Canada et le gouvernement des États-Unis d'Amérique, le 3 août 1995, de l'Accord canado-américain sur la politique de concurrence. Cet accord établissait un cadre de relations plus étroites entre le Canada et les États-Unis dans le domaine de l'application des lois sur la concurrence et sur les pratiques commerciales déloyales des deux pays.

L'entente a été signée et l'annonce a été faite à Burlington, au Vermont, à l'occasion d'une importante réunion des organismes canadiens et américains chargés de l'application de la loi au niveau fédéral ainsi que dans les provinces et les états. Cette réunion avait pour thème le télémarketing transfrontalier trompeur et frauduleux.

Ont signé au nom du Bureau de la concurrence Rachel Larabie-LeSieur, Sous-directeur des enquêtes et recherches (Pratiques commerciales), et au nom de la FTC, Jodie Bernstein, Directeur du Bureau de la protection du consommateur.

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Renseignements :

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Release 7473.f

News Release

PRISON TERM IMPOSED UNDER THE *COMPETITION ACT* FOLLOWING JURY TRIAL

OTTAWA, September 9, 1996 -- Francine Matte, Q.C., Acting Director of Investigation and Research under the *Competition Act*, announced today that a sentence has been handed down against the accused in the Sherbrooke and Magog Driving Schools case in Quebec. The accused, Mr. Jacques Perreault, who had exercised his right to a trial by jury, has been found guilty on each of the six counts charged against him on June 15, 1996.

Mr. Justice Paul-Marcel Bellavance of the Quebec Superior Court in Sherbrooke sentenced Mr. Perreault to a jail term of one year for his part in the offences committed.

The conviction in this case was for a number of offences under the criminal provisions of the *Act*, including conspiracy to fix prices. The case was the first trial by jury ever held with respect to a *Competition Act* offence.

"It is a very serious matter when competitors agree to set prices and engage in anti-competitive criminal activities to deny consumers the benefits which might normally result from competitive markets," said Ms. Matte. "The jury conviction and the sentence handed down by the Court against the individual in this case are very significant precedents under the *Competition Act*."

After an extensive criminal investigation, it was concluded that a number of sections of the *Competition Act* had been breached in the Sherbrooke and Magog driving school markets in Quebec. The charges included conspiracy to set prices, engaging in price maintenance, predatory pricing and regional predatory pricing policies in the Sherbrooke market during 1987. The accused was also charged for his role in engaging in predatory pricing and regional predatory pricing policies in the adjoining Magog market during the 1988-1991 period.

This case is part of an ongoing criminal prosecution that will involve further court proceedings against other driving schools and individuals this fall in Sherbrooke.

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Communiqué

PEINE D'EMPRISONNEMENT IMPOSÉE EN VERTU DE LA *LOI SUR LA CONCURRENCE* À LA SUITE D'UN PROCÈS PAR JURY

OTTAWA, le 9 septembre 1996 -- M[e] Francine Matte, c.r. directeur intérimaire des enquêtes et recherches en vertu de la *Loi sur la concurrence*, a annoncé aujourd'hui qu'une sentence a été prononcée contre un accusé dans l'affaire des écoles de conduite de Sherbrooke et de Magog (Québec). L'accusé, M. Jacques Perreault, qui s'est prévalu de son droit à un procès devant un jury d'assises, a été reconnu coupable, le 15 juin 1996, des six chefs d'accusation portés contre lui.

M. le juge Paul-Marcel Bellavance, de la Cour supérieure du Québec à Sherbrooke, a condamné Monsieur Perreault à un an de prison pour le rôle qu'il a joué dans la commission des infractions.

L'accusé a été condamné d'avoir enfreint plusieurs dispositions criminelles de la *Loi*, dont celle de complot pour la fixation de prix. Il s'agit de la toute première cause criminelle devant jury en vertu de la *Loi sur la concurrence*.

«Lorsque des concurrents s'entendent pour fixer les prix et se livrent à des agissements anticoncurrentiels criminels qui privent les consommateurs et les consommatrices des avantages que devraient normalement leur procurer des marchés concurrentiels, ils commettent un délit grave», a déclaré M[e] Matte.

M[e] Matte a ajouté : «La condamnation prononcée par le jury et la peine que la Cour a imposée à l'accusé dans cette affaire constituent des précédents très importants pour l'application de la *Loi sur la concurrence*».

Une enquête criminelle d'envergure avait mené à la conclusion que des dispositions de la *Loi sur la concurrence* avaient été enfreintes dans les marchés des écoles de conduite de Magog et de Sherbrooke, au Québec. Les chefs d'accusation qui résultent de l'enquête portent sur le complot pour fixer les prix, le maintien des prix, de pratiques de prix d'éviction et de prix d'éviction régionaux dans le marché de Sherbrooke en 1987. Monsieur Perreault avait également été accusé de s'être livré à des politiques de prix d'éviction et de prix d'éviction régionaux dans le marché avoisinant de Magog au cours de la période 1988-1991.

Les procédures judiciaires dans cette affaire se poursuivent contre d'autres écoles de conduite et individus qui devront subir leur procès cet automne à Sherbrooke.

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Release 7472.f

News Release

$5.8 MILLION FINE IMPOSED ON READY MIX CONCRETE PRODUCERS FOR CONSPIRACY IN METROPOLITAN AREA OF QUEBEC CITY

OTTAWA, August 19, 1996 — The Acting Director of Investigation and Research under the *Competition Act,* Francine Matte, Q.C., announced today that Ciment Québec Inc., Ciment St-Laurent Inc., Lafarge Canada Inc. and Béton Orléans Inc., pleaded guilty to one count of conspiracy and must pay a $5.8 million fine. The sentence was imposed by Mr. Justice Louis de Blois of the Québec Superior Court.

This is the second highest fine imposed on a group of companies for one count under the *Act*.

In addition to the fine, a prohibition order was imposed for 15 years. It ordered the companies to respect the provisions of the Act and obliged the accused to understand the law and to ensure that their officers and administrators comply with the law. The accused are also required to attend information sessions on the *Act* which will be prepared in collaboration with Competition Bureau staff and presented by the president and legal counsel for each accused.

The accused pleaded guilty to having entered into an agreement and collaborated with other persons to share the sales of ready mix concrete produced for projects requiring 300 cubic metres of concrete in Québec City and the metropolitan area.

"We are very pleased to learn that there was a reduction in the price of ready mix concrete following our investigation and this resulted in substantial savings for consumers and construction firms of the metropolitan area of Québec City," stated Ms. Matte.

A short time after the searches were commenced, the accused initiated meetings with representatives of the Bureau and of the Attorney General in order to better understand their responsibility, to cooperate with the inquiry and to begin the discussions leading to an eventual guilty plea.

This inquiry began July 1995, following the publication of articles in a Québec regional newspaper alleging anti-competitive behaviour on the part of producers of ready mix concrete in the metropolitan area of Québec City.

The inquiry regarding allegations of conspiracy and bid-rigging by other producers of ready mix concrete in this region is continuing.

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Release 7466.e

Communiqué

AMENDE DE 5,8 MILLIONS $ POUR COMPLOT IMPOSÉE À DES PRODUCTEURS DE BÉTON PRÉPARÉ DE LA RÉGION MÉTROPOLITAINE DE LA VILLE DE QUÉBEC

OTTAWA, le 19 août 1996 — Le directeur intérimaire des enquêtes et recherches nommé en vertu de la *Loi sur la concurrence,* M^e^ Francine Matte, c.r., a annoncé aujourd'hui que Ciment Québec Inc., Ciment St-Laurent Inc., Lafarge Canada Inc. et Béton Orléans Inc. ont plaidé coupable à une accusation de complot et devront payer une amende de 5 800 000 $. La sentence a été imposée par Monsieur le juge Louis de Blois de la Cour supérieure du Québec.

Il s'agit de la seconde amende la plus élevée imposée à un groupe d'entreprises pour une seule infraction à la *Loi sur la concurrence*.

En plus de l'amende, les entreprises se sont vu imposées une ordonnance d'interdiction d'une durée de 15 ans. L'ordonnance oblige les accusées à se conformer à la *Loi* et à faire connaître son contenu ainsi que la politique de conformité à la *Loi* auprès de ses agents et administrateurs. Les accusées s'engagent également à suivre des séances d'information concernant la *Loi* , lesquelles seront préparées en collaboration avec des représentants du Bureau de la concurrence et présentées par le président et les conseillers juridiques de chaque accusée.

Les accusées ont plaidé coupable d'avoir conclu entre elles et avec d'autres personnes un accord pour se répartir les ventes de béton préparé de plus de 300 mètres cubes dans la ville de Québec et la région métropolitaine.

«Nous sommes très heureux de constater une réduction dans les prix du béton préparé depuis le début de l'enquête entraînant des économies substantielles pour les consommateurs et les entrepreneurs en construction de la région métropolitaine de la ville de Québec» a déclaré M^e^ Matte.

Peu de temps après les perquisitions, toutes les entreprises accusées ont pris l'initiative de rencontrer des représentants du Bureau de la concurrence et du procureur général du Canada pour reconnaître leurs responsabilités, offrir leur coopération à l'enquête et entreprendre des pourparlers relativement à un plaidoyer éventuel de culpabilité.

Cette enquête a été ouverte en juillet 1995 suite à la publication d'articles dans un journal de la région de Québec alléguant des comportements anticoncurrentiels de la part des producteurs de béton préparé de la région métropolitaine de la ville de Québec.

L'enquête quant aux allégations de complots et de truquage d'offres se poursuit en ce qui a trait à d'autres producteurs de béton préparé de cette région.

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Release 7466.f

News Release

NEW OJI PAPER COMPANY LIMITED PLEADS GUILTY UNDER THE *COMPETITION ACT* AND PAYS $600,000 FINE IN THE THERMAL FAX PAPER INQUIRY

OTTAWA, July 16, 1996, Francine Matte, Q.C., Acting Director of Investigation and Research under the *Competition Act*, announced today that New Oji Paper Company Limited pleaded guilty to one charge of conspiracy to set prices in the thermal fax paper industry in violation of section 45 of the *Competition Act*.

The company was sentenced in the Federal Court of Canada and was ordered to pay a fine of $600,000. The Court also issued a Prohibition Order against the company prohibiting further anticompetitive activity.

After an extensive investigation in Canada and abroad, conducted in cooperation with the U.S. Justice Department, Antitrust Division, it was concluded that the company, based in Japan, had participated in an illegal conspiracy in 1991, to fix prices in Canada and the United States for thermal fax paper.

"This is an important precedent," Ms. Matte said. "It is the first prosecution and conviction in Canada of a Japan-based manufacturer for its participation in a conspiracy that directly affected the price at which thermal fax paper was sold to Canadian businesses and consumers. The joint investigation with the U.S. antitrust authorities resulted in a successful and speedy resolution of the illegal activity and we are confident that this conviction will re-emphasize to foreign companies doing business in Canada that they must comply with Canadian law."

The conviction in this case is part of an ongoing investigation of the thermal fax paper industry that has already resulted in three prosecutions and Canadian fines totaling nearly $2.6 million against other fax paper companies in both Canada and the United States between 1994 and the present. The investigation into the conspiracy is continuing .

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Release 7457.c

Communiqué

**ENQUÊTE SUR LE PAPIER THERMOSENSIBLE POUR TÉLÉCOPIEUR :
NEW OJI PAPER COMPANY LIMITED RECONNAÎT SA CULPABILITÉ
À UNE INFRACTION À LA *LOI SUR LA CONCURRENCE*
ET PAIE UNE AMENDE DE 600 000 $**

OTTAWA, le 16 juillet 1996 -- M[e] Francine Matte, c.r., Directeur intérimaire des enquêtes et recherches en vertu de la *Loi sur la concurrence*, a annoncé aujourd'hui que New Oji Paper Company Limited a reconnu sa culpabilité à une accusation de complot de fixation de prix dans l'industrie du papier thermosensible pour télécopieur, portée en vertu de l'article 45 de la *Loi*.

La Cour fédérale du Canada a condamné la société à une amende de 600 000 $. Elle a aussi rendu une ordonnance d'interdiction interdisant à la société de poursuivre ses pratiques anticoncurrentielles.

Une enquête approfondie au Canada et à l'étranger, effectuée en collaboration avec la Division antitrust du département de la Justice américain, a permis de conclure que la société, établie au Japon, avait participé, en 1991, à un complot illégal visant à fixer le prix du papier thermosensible pour télécopieur sur les marchés canadien et américain.

Selon M[e] Matte, il s'agit d'un précédent important : «C'est la première fois qu'un fabricant établi au Japon est poursuivi et condamné au Canada pour avoir pris part à un complot ayant influencé directement le prix auquel le papier thermosensible pour télécopieur était vendu aux entreprises et aux consommateurs canadiens. L'enquête menée conjointement avec les autorités antitrust américaines a permis de mettre rapidement un terme à l'activité illégale, et nous sommes certains que cette condamnation rappellera aux sociétés étrangères exploitant leur entreprise au Canada l'importance de respecter le droit canadien».

Cette condamnation fait suite à une enquête visant l'industrie du papier thermosensible pour télécopieur qui, de 1994 à aujourd'hui, a déjà donné lieu à trois poursuites et à l'imposition, au Canada, d'amendes totalisant près de 2,6 millions de dollars, à des sociétés canadiennes et américaines. L'enquête sur ce complot se poursuit.

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Pour plus de renseignements, veuillez communiquer avec :

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Release 7457.f

News Release

DIRECTOR RELEASES BULLETIN ON STRATEGIC ALLIANCES

OTTAWA, November 23, 1995 — George N. Addy, Director of Investigation and Research under the *Competition Act*, released today an enforcement Information Bulletin entitled STRATEGIC ALLIANCES UNDER THE *COMPETITION ACT*. The document is being released after an extensive consultation process with industry, legal counsel, economists and government.

The principal objective in issuing the Bulletin is to provide guidance regarding the Director's enforcement policy with respect to strategic alliances under the *Competition Act*, and especially under the merger review provisions and the criminal conspiracy provision.

"Uncertainty regarding the legality of strategic alliances may increase the risk that opportunities to create alliances which are pro-competitive may not be pursued. To reduce this uncertainty, I am issuing this policy statement to provide general guidance on my enforcement approach to strategic alliances under the *Competition Act*," Mr. Addy said.

The Bulletin reflects the Director's overall compliance policy of informing the legal and business communities, both Canadian and international, about the Director's policies and practices regarding the enforcement and administration of the *Act*. The Bureau has issued a series of enforcement guidelines on such subjects as mergers, price discrimination, predatory pricing, misleading advertising and compliance.

A copy of the document may be obtained by contacting the Complaints and Public Enquiries Centre of the Bureau at this toll free number: 1-800-348-5358. The document is also available on the Internet: http://www.ic.gc.ca/ic-data/marketplace/competition/

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Release 7361

Bureau de la politique de concurrence

Communiqué

LE DIRECTEUR FAIT PARAÎTRE UN BULLETIN SUR LES ALLIANCES STRATÉGIQUES

OTTAWA, le 23 novembre 1995 — George N. Addy, directeur des enquêtes et recherches nommé en vertu de la *Loi sur la concurrence*, a fait paraître aujourd'hui un bulletin d'information sur l'application de la *Loi* intitulée « Les alliances stratégiques en vertu de la *Loi sur la concurrence* ». Le document en question est le fruit d'une vaste consultation auprès de gens d'affaires, d'avocats, d'économistes et de représentants du gouvernement.

En publiant ce bulletin, le Directeur vise avant tout à donner des conseils sur la politique concernant l'application de la *Loi sur la concurrence*, en particulier des dispositions relatives à l'examen des fusionnements et aux complots de nature criminelle, aux alliances stratégiques.

« L'incertitude au sujet de la légalité des alliances stratégiques peut inciter certains gens d'affaires à ne pas saisir des occasions de créer des alliances susceptibles d'être bénéfiques pour l'économie. Afin de minimiser ce risque, je présente cet énoncé de principes qui fournit des conseils, ainsi que des précisions sur la manière dont j'envisage l'application de la *Loi sur la concurrence* aux alliances stratégiques », a précisé Me Addy.

Le Bulletin témoigne de l'engagement pris par le Directeur d'informer le milieu juridique et les gens d'affaires, tant au Canada qu'à l'étranger, de ses politiques et pratiques concernant l'application de la *Loi*. Le Bureau a déjà publié une série de lignes directrices pour l'application de la *Loi* portant sur des sujets comme les fusionnements, la discrimination par les prix, le prix d'éviction, la publicité trompeuse et la conformité.

On peut obtenir un exemplaire du document en communiquant sans frais avec le Centre des plaintes et des renseignements du Bureau au numéro 1-800-348-5358. On peut également avoir accès au document à l'adresse suivante sur le réseau Internet : http://www.ic.gc.ca/ic-data/marketplace/competition/

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Pour obtenir plus de renseignements, veuillez communiquer avec :

Cecile Suchal, (819) 953-5303

Release 7361

News Release

COMPETITION BUREAU RELEASES BANK MERGER GUIDELINES

Ottawa, July 15, 1998 -- Following a public consultation, the Competition Bureau announced today how it will examine proposed bank mergers including those between the Royal Bank of Canada - Bank of Montreal and CIBC - Toronto Dominion Bank.

Last November, in anticipation of mergers in the financial sector, the Competition Bureau began consulting on its draft Merger Enforcement Guidelines as Applied to a Bank Merger. A wide range of organizations responded.

"I am pleased that most of those consulted felt that with some fine tuning our analytical approach is sound", commented Konrad von Finckenstein, Director of the Competition Bureau.

The Bureau has clarified some issues in the final bank mergers guidelines including that it will examine the proposed mergers of the Royal Bank of Canada - Bank of Montreal and CIBC - Toronto Dominion Bank, concurrently as recommended by most of those consulted.

While the authority of both the Director and the Minister of Finance are spelled out in the Competition Act and the Bank Act, both acts are silent on how the Director and the Minister should interact and how the process should unfold. Consequently, the procedural interaction between the Director and the Minister of Finance has also been spelt out.

A backgrounder is available on request.

For further details, please call the Bureau's toll free number at 1-800-348-5358, or visit the Competition Bureau website at: http://strategis.ic.gc.ca/competition

Also, if you wish to comment on the proposed bank mergers, please consult the Bureau website identified above.

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For more information, please contact:

Margaret Sanderson
(819) 953-4351

Denis Corriveau
(819) 953-8551

Release 8037-e

Communiqué

LE BUREAU DE LA CONCURRENCE REND PUBLIC DES LIGNES DIRECTRICES CONCERNANT LES FUSIONNEMENTS DE BANQUES

Ottawa, 15 juillet 1998 - Suite à une vaste consultation, le Bureau de la concurrence a annoncé aujourd'hui la façon dont il examinera les projets de fusionnement des banques incluant celui entre la Banque Royale du Canada et la Banque de Montréal ainsi que celui entre la Banque Canadienne Impériale de Commerce et la Banque Toronto-Dominion.

Comme il prévoyait des fusionnements dans le secteur financier, le Bureau de la concurrence a commencé, en novembre dernier, une consultation concernant une version préliminaire de Lignes directrices pour l'application de la Loi à des fusionnements de banques. Plusieurs organismes ont soumis des commentaires.

« Je suis ravi que la plupart des personnes que nous avons consultées ait trouvé qu'après quelques fignolages, notre approche analytique serait valable » a déclaré monsieur Konrad von Finckenstein, directeur du Bureau de la concurrence.

Le Bureau a également indiqué aujourd'hui qu'il examinera simultanément les projets de fusionnement entre la Banque Royale du Canada et la Banque de Montréal ainsi qu'entre la Banque Canadienne Impériale de Commerce et la Banque Toronto-Dominion tel que suggéré par la plupart des intervenants.

Même si l'autorité du directeur et celle du ministre des Finances sont décrites dans la *Loi sur la concurrence* et la *Loi sur les banques*, les deux lois ne disent pas de quelle façon le directeur et le ministre devraient procéder ni comment ce processus devrait se dérouler. L'interaction entre le ministre des Finances et le directeur concernant les procédures qu'ils suivront a donc été décrite dans ces lignes directrices.

Un document d'information est disponible sur demande.

Pour de plus amples détails, veuillez communiquer avec le Bureau au numéro sans frais 1-800-348-5358 ou visiter le site Internet du Bureau à l'adresse suivante : http://strategis.ic.gc.ca/concurrence.

De plus, si vous avez des commentaires au sujet des fusionnements des banques, consultez le site web du Bureau qui est identifié ci-dessus.

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Pour plus de renseignements, veuillez contacter :

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(819) 953-4351

Release 8037-f

News Release

DECISION BY PETRO-CANADA AND ULTRAMAR TO ABANDON MERGER PLANS WILL PRESERVE COMPETITION FOR INDEPENDENT GAS RETAILERS AND CONSUMERS

OTTAWA, June 22, 1998 -- The Competition Bureau has learned that Petro-Canada and Ultramar Diamond Shamrock (Ultramar) have decided to discontinue their joint venture arrangement following discussions with the Bureau.

After an intensive five-month investigation, and several discussions with both companies, the Director of Investigation and Research, Konrad von Finckenstein, had informed the companies of his serious concerns that the transaction would likely cause a substantial lessening or prevention of competition in wholesale and retail petroleum markets in Quebec and Atlantic Canada.

As a result, the two companies have chosen today to abandon their proposed merger.

"In joint ventures of this size, there is often room to restructure a deal to alleviate competition concerns," added Mr. von Finckenstein. "However, in this instance no workable alternatives could be identified."

In its investigation, the Competition Bureau's team of 20 lawyers, economists, accountants, industry specialists and experienced merger investigators found that the proposed merger would have led to a substantial lessening or prevention of competition in the Quebec and Atlantic Canada markets, where the two companies currently compete at both the wholesale and retail levels.

"The Petro-Canada and Ultramar decision will be good for independent gasoline retailers and consumers," noted Mr. von Finckenstein. "Petro-Canada and Ultramar are profitable in both Quebec and Atlantic Canada, so we see no reason why they cannot remain in those markets as vigorous, efficient and effective competitors in the supply of refined petroleum products."

In its investigation, Competition Bureau staff interviewed and obtained documents from the parties, independent gas retailers, importers of crude oil and refined petroleum products, other refiners and wholesalers, industry associations and provincial authorities from across the country.

Throughout the January to May investigation period, the lines of communication between Competition Bureau investigators and legal counsel for the two companies remained open. As a result, both Petro-Canada and Ultramar were aware of the Bureau's preliminary concerns at a very early stage and were encouraged to respond at every juncture.

Key concerns raised by Bureau investigators related to the Quebec and Atlantic Canada markets, where the two companies currently compete at both the wholesale and retail levels, include:

. The removal of a vigorous and effective competitor like Ultramar at both the wholesale and retail levels for gasoline and other oil-based products.
. Increased levels of concentration for gasoline and distillate products, and the likelihood that prices could increase.
. The fact that costs at the wholesale level inevitably trickle down to consumers over the longer term.

"The mandate of the Competition Bureau is to maintain competitive markets," explained Mr. von Finckenstein. "In the final analysis we must be sure that consumers across the country have access to as wide a range of products as possible at the best possible prices."

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The Competition Bureau is an independent law enforcement agency that is responsible for merger review and the lawful conduct of business in Canada, as defined by the Competition Act.

For further information, please contact:
Cécile Suchal
(819) 953 -5303

News Release

MEDI-MAN REHABILITATION PRODUCTS INC. AND SENIOR OFFICIALS FINED $200,000 UNDER MISLEADING ADVERTISING PROVISIONS OF THE *COMPETITION ACT*

Ottawa, June 12, 1998 - The Competition Bureau announced today that Medi-Man Rehabilitation Products Inc. and senior officials pleaded guilty to offences contrary to the misleading advertising provisions of the *Competition Act*. In accordance with the plea agreement a joint submission was made where the company and officials were fined a total of $200,000.

Medi-Man is a Mississauga-based medical products manufacturer and distributor. The charges relate to Medi-Man's marketing practices regarding two of its patient lifts, at the early stages of the development of these products, during the period January 1988 to January 1994. During this period of time, two of Medi-Man's patient lifts were marketed as having been "Made in Canada". Medi-Man imported the two lifts unassembled, and modified them in Canada. The patient lifts were not, however, manufactured in Canada.

"The country of origin is significant for many consumer products," said Francine Matte, Q.C., Acting Director of Investigation and Research. "The Competition Bureau has, and will continue to prosecute anyone who misleads consumers in the marketing of its products."

Medi-Man and its senior management co-operated with the Competition Bureau to address and resolve this issue which related to company practices solely during the time period noted above.

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For more information, please contact:

Larry Bryenton
(819) 953-8547

Release 7991-e

Communiqué

AMENDE DE 200 000 $ INFLIGÉE À MEDI-MAN REHABILITATION PRODUCTS INC. ET À SES DIRECTEURS, EN VERTU DES DISPOSITIONS VISANT LA PUBLICITÉ TROMPEUSE DE LA *LOI SUR LA CONCURRENCE*

Ottawa, le 12 juin 1998 — Le Bureau de la concurrence a annoncé aujourd'hui que l'entreprise Medi-Man Rehabilitation Products Inc. et ses directeurs ont plaidé coupable à des infractions aux dispositions visant la publicité trompeuse de la *Loi sur la concurrence*. Conformément à une transaction pénale, l'entreprise et les directeurs ont convenu dans un exposé conjoint de payer une amende totalisant 200 000 $.

Medi-Man est une entreprise de Mississauga qui fabrique et distribue des produits médicaux. Les accusations portaient sur les pratiques commerciales de l'entreprise en rapport avec deux lève-malades, aux premiers stades de mise au point de ces produits, durant la période de janvier 1988 à janvier 1994. Au cours de cette période, deux de ces appareils ont été vendus portant l'affirmation «Fabriqué au Canada». Or, Medi-Man a importé ces appareils non assemblés et les a modifiés au Canada. Ces lève-malades n'ont pas été fabriqués au Canada.

«Le pays d'origine est un facteur important pour de nombreux produits de consommation», a affirmé M^{e} Francine Matte, c.r., directeur intérimaire des enquêtes et recherches. «Dans le passé, le Bureau de la concurrence a intenté des poursuites contre quiconque a eu recours à des pratiques trompeuses dans la commercialisation de ses produits à des consommateurs, et il continuera de le faire.»

L'entreprise Medi-Man et ses directeurs ont collaboré avec le Bureau de la concurrence pour régler cette question ayant uniquement rapport aux pratiques de l'entreprise pendant la période indiquée.

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Pour de plus amples renseignements, veuillez communiquer avec :

Jim Walker
(819) 997-1212

Release 7991-f

Information

CANADA – UE
PARAPHE APPOSÉ À UN ACCORD RELATIF À LA POLITIQUE DE CONCURRENCE

Ottawa, le 4 juin 1998 – Le Bureau de la concurrence a annoncé aujourd'hui que le texte d'un accord intervenu entre l'Union européenne et le gouvernement du Canada relativement à l'application de leur législation respective en matière de concurrence a reçu le paraphe du Bureau et de la Commission européenne. La Commission a en outre adopté une proposition visant la prise d'une décision conjointe avec le Conseil des ministres des Communautés européennes afin de conclure l'accord proposé.

Il s'agit donc de mesures concrètes en vue de la signature d'un accord proposé qui permettra d'établir un cadre favorisant des relations plus étroites entre le Canada et l'UE sur le plan de leur législation relative à la concurrence. Une coopération et une coordination étendues engloberont les questions touchant leurs intérêts individuels et réciproques en plus de s'harmoniser aux lois actuelles sur la protection des renseignements de nature confidentielle.

S'inspirant en grande partie de l'accord intervenu entre le Canada et les États-Unis en 1995, le projet d'accord avec l'UE offrira des outils qui permettront de mieux veiller à l'application de la *Loi sur la concurrence* en ce qui a trait aux activités anticoncurrentielles outre-frontière susceptibles de diminuer les avantages liés à un commerce accru entre le Canada et les États membres de l'UE.

Une fois obtenue l'approbation du Canada et du Conseil, qui devra au préalable consulter le Parlement européen, l'accord entrera en vigueur dès sa signature, prévue pour le début de 1999. Jusqu'à ce moment-là, le Bureau de la concurrence continuera de coopérer avec la Commission européenne sous les auspices de l'OCDE.

Pour de plus amples renseignements au sujet du contenu de la convention, veuillez communiquer avec le Bureau au numéro sans frais 1-800-348-5358 ou visiter le site Web du Bureau de la concurrence à l'adresse http://strategis.ic.gc.ca/concurrence

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Pour toute information additionnelle, n'hésitez pas à communiquer avec :

Cécile Suchal
(819) 953-5303

Information 2133-f

Information

CANADA - EU

COMPETITION POLICY AGREEMENT INITIALED

Ottawa, June 4, 1998 - The Competition Bureau announced today that the text of an agreement between the European Union and the Government of Canada regarding the application of their competition laws has been initialed by both the Bureau and the European Commission. The Commission also adopted a proposal for a joint decision with the Council of Ministers of the European Union to conclude the proposed agreement.

These are significant steps towards the signing of the proposed agreement which will provide for a framework for closer relations between Canada and the E.U. regarding the enforcement of their competition laws. Expanded cooperation and coordination will involve matters affecting their individual and mutual interests and will be consistent with existing laws protecting the confidentiality of information.

Along the lines of the 1995 Canada - U.S agreement, the proposed agreement with the E.U. will provide tools to improve the enforcement of the *Competition Act* in relation to cross-border anticompetitive activities which can impair the benefits of increased trade between Canada and the E.U.

The agreement will enter into force upon signature following its approval by Canada and by the Council after consultation of the European Parliament. Signature is likely to take place early in 1999. Until then, the Competition Bureau will continue to cooperate with the European Commission under the auspices of the OECD framework.

For further details on the contents of the agreement, please call the Bureau's toll free number at 1-800-348-5358, or visit the Competition Bureau web site at: http://strategis.ic.gc.ca/competition

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For more information, please contact:

Cécile Suchal
(819) 953-5303

Information 2133-e

News Release

$ 16 MILLION IN FINES PAID BY ARCHER DANIELS MIDLAND FOR VIOLATIONS OF THE *COMPETITION ACT* IN THE FOOD AND FEED ADDITIVE INDUSTRIES

OTTAWA, May 27, 1998 – The Competition Bureau announced today that Archer Daniels Midland Company (ADM), a United States corporation, pleaded guilty to having participated in price-fixing and market sharing conspiracies and will pay fines totalling $16 million.

This is the largest fine ever imposed under the *Competition Act*.

The offences relate to the participation of the firm in an international conspiracy to fix prices and allocate market shares in the lysine and citric acid markets worldwide. Archer Daniels Midland was fined $9 million for price fixing and $5 million for market sharing in the lysine industry. In the citric acid conspiracy, the company was fined $2 million. The company has also agreed to cooperate with the Bureau in ongoing investigations into these and other food and feed additives.

"The penalty levied today sends a message to business that conspiracy offences will not be tolerated in Canada, nor will Canada be a safe haven for those who would try to exploit Canadian consumers and business," said Konrad von Finckenstein, Q.C., Director of Investigation and Research. "Competition law agencies around the world are increasingly cooperating to combat global cartels. This type of criminal behaviour is unacceptable and perpetrators cannot expect to escape sanction in Canada by carrying out their illegal conduct outside the country."

The charges relate to the period from 1992 to1995 and are the result of an extensive criminal investigation conducted by the Competition Bureau into a scheme designed to inflate prices of lysine and citric acid and divide world markets, including Canada.

In addition, the Federal Court of Canada imposed a prohibition order on the company under the *Competition Act* to ensure that the company does not repeat these offences.

Lysine is an amino acid feed additive used in hog and poultry feeds worldwide. Annual sales of lysine total $960 million worldwide, with Canadian sales of all producers reaching approximately $89 million over the period of the conspiracy. Archer Daniels Midland sold $48 million worth of lysine during the period.

Citric acid is an ingredient in a variety of consumer products. It is used in the food and beverage industry as a flavour enhancer and preservative to prevent food spoilage and to reduce the risks of food poisoning. It has recently found application in the manufacture of environmentally friendly detergents as a replacement for phosphates. Worldwide sales total some $1.7 billion. Total Canadian sales are estimated at some $104 million during the period in question, with Archer Daniels Midland accounting for $17 million of that amount. It should be noted that the vast majority of citric acid is consumed by Canadians as an ingredient in processed foods and beverages such as tinned vegetables, fruit juices and soft drinks.

As a result of these conspiracies, feed companies and farmers paid millions more to buy lysine. Similarly manufacturers of processed foods, soft drinks and detergents paid millions more for citric acid. These additional costs ultimately caused Canadian consumers to pay more for chicken, pork, soft drinks, processed foods and other products.

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For further information, please contact:

Cécile Suchal
(819) 953-5303

Information

COMPETITION BUREAU RELEASES COMPUTER SOFTWARE PAMPHLET

Ottawa, May 14,1998 - The Competition Bureau announced today that it is releasing a pamphlet which advises consumers on how to be smart shoppers when they purchase computer software. The pamphlet is entitled "Be a Smart Shopper - Know Your Software."

The pamphlet encourages consumers to be aware of claims and offers prior to buying any computer software. Shoppers should also ensure that the software they plan to buy will function using the minimum system requirement shown on the packaging, including all pictures and graphics. They should question the retailer about the meaning of any promotional offers, whether technical support includes "free" calls and know whether a separate licence for multi-user games is required. It is important to ask about the return policy. Other tips are also available.

The pamphlet was produced as a result of a survey conducted on the claims of various types and applications of computer software. The survey results were sent to members of the software industry and through the Industry Canada Strategis site. The industry has the responsibility to ensure consumers are provided with sufficient and accurate information.

For further details on the contents of the brochure, visit the Competition Bureau web site at: http://strategis.ic.gc.ca/competition or call an office near you (see list below). You may also call the Competition Bureau's toll free number at 1-800-348-5358.

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Pacific Region (BC, YT)	Jim Turpin	(250) 363-3517
Prairie Region (AB, SK, MB, NWT)	Carey Daoust	(306) 780-5384
Ontario	Bill Bunker	(416) 954-2609
Quebec	Maurice Fournier	(514) 283-3109
Atlantic Region	Shelley Curlew	(902) 426-6858

e-mail: fbpinfo@ic.gc.ca
Internet: http://strategis.ic.gc.ca/competition

Information 2130-e

Information

PUBLICATION D'UN DÉPLIANT SUR LES LOGICIELS PAR LE BUREAU DE LA CONCURRENCE

Ottawa, le 14 mai 1998 – Le Bureau de la concurrence a annoncé aujourd'hui la publication d'un dépliant destiné à aider les consommatrices et les consommateurs à acheter des logiciels de façon judicieuse. Le dépliant s'intitule « Soyez un consommateur averti : Pour en savoir plus sur les logiciels ».

Le dépliant encourage les consommateurs à lire attentivement tous les renseignements et toutes les réclames avant d'acheter un logiciel. Les consommateurs doivent également s'assurer que le logiciel qu'ils prévoient acheter fonctionnera suivant les exigences informatiques minimales indiquées sur l'emballage, et que les images et graphiques pourront être reproduits. Il leur est conseillé de demander au vendeur des précisions sur toute offre promotionnelle et de s'informer si le soutien technique comprend des appels « gratuits » et si une licence distincte pour les jeux à utilisateurs multiples est requise. Enfin, il est recommandé aux consommateurs de se renseigner sur la politique de retour. Le dépliant renferme aussi d'autres conseils utiles.

Le dépliant a été produit à la suite d'une enquête effectuée au sujet des représentations concernant divers logiciels et applications sur ordinateur. Les résultats de l'enquête ont été communiqués aux membres de l'industrie du logiciel et ont été diffusés dans le site Strategis d'Industrie Canada. Il incombe à l'industrie de faire en sorte que les consommateurs disposent de renseignements suffisants et exacts.

Pour de plus amples détails concernant le dépliant, consulter le site Web du Bureau de la concurrence, à : http://strategis.ic.gc.ca/concurrence, ou téléphoner au bureau de votre région (voir la liste ci-dessous). On peut également appeler au numéro sans frais du Bureau de la concurrence, au 1-800-348-5358.

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Région du Pacifique (C.-B., Yn)	Jim Turpin	(250) 363-3517
Région des Prairies (Alb., Sask., Man., T.N.-O.)	Carey Daoust	(306) 780-5384
Ontario	Bill Bunker	(416) 954-2609
Québec	Maurice Fournier	(514) 283-3109
Région de l'Atlantique	Shelley Curlew	(902) 426-6858

Courrier électronique : fbpinfo@ic.gc.ca
Internet : http://strategis.ic.gc.ca/concurrence

Information 2130-f

News Release

HUDSON'S BAY COMPANY FINED $600,000 UNDER MISLEADING ADVERTISING PROVISIONS OF THE *COMPETITION ACT*

Ottawa, May 4, 1998 -The Competition Bureau announced today that Hudson's Bay Company (HBC), carrying on business as *The Bay*, pleaded guilty to one offence contrary to the misleading advertising provisions of the *Competition Act.*

A fine of $600,000 was imposed by the Ontario Court (General Division). The fine is the second highest ever imposed for a conviction of a misleading advertising offence under the *Competition Act.*

The charges relate to The Bay's marketing practices regarding a variety of brands and sizes of bicycles during the period February 1, 1989 to March 31, 1991. During this time, The Bay misled Canadians by representing that its bicycles would be offered at a sale price for a certain limited period of time when in fact the sale continued for a much longer period of time. The misrepresentations were in the form of flyers, newspaper advertisements and in-store displays.

"Consumers can be easily misled by sales promotions that create a general impression of urgency, especially when these relate to items as commonly purchased as bicycles," said Konrad von Finckenstein, Director of Investigation and Research. "The Competition Bureau will use every opportunity to ensure that big or small companies provide consumers with accurate information."

HBC, which operates department stores under the banners 'The Bay', 'Zellers', 'Kmart', and 'Fields', is Canada's largest department store retailer.

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For more information, please contact:

Cécile Suchal
(819) 953-5303

Release 7932-e

Communiqué

AMENDE DE 600 000 $ IMPOSÉE À LA COMPAGNIE DE LA BAIE D'HUDSON EN VERTU DES DISPOSITIONS DE LA *LOI SUR LA CONCURRENCE* RELATIVES À LA PUBLICITÉ TROMPEUSE

Ottawa, le 4 mai 1998 -Le Bureau de la concurrence a annoncé aujourd'hui que la Compagnie de la Baie d'Hudson, faisant affaires sous le nom de *La Baie*, a plaidé coupable à une accusation de publicité trompeuse aux termes de la *Loi sur la concurrence.*

La Division générale de la Cour de l'Ontario a imposé une amende de 600 000 $ à la compagnie. Il s'agit de la deuxième amende en importance jamais imposée pour une infraction aux dispositions sur la publicité trompeuse de la *Loi sur la concurrence.*

Les accusations concernent les pratiques de commercialisation utilisées par *La Baie* touchant différentes marques et grandeurs de bicyclettes pendant la période allant du 1er février 1989 au 31 mars 1991. Pendant cette période, *La Baie* a annoncé que les bicyclettes seraient offertes en vente pendant une durée limitée alors que la vente a duré beaucoup plus longtemps. Cette déclaration trompeuse figurait dans des dépliants, des annonces dans les journaux et sur les affiches en magasin.

« Les consommateurs peuvent facilement être induits en erreur par une campagne de publicité qui donne une impression d'urgence, en particulier lorsqu'elle concerne des articles aussi populaires que des bicyclettes, »a déclaré M. Konrad von Finckenstein, directeur des enquêtes et recherches. « Le Bureau de la concurrence fera tout en son pouvoir pour que les entreprises, grandes ou petites, donnent des renseignements exacts aux consommatrices et aux consommateurs. »

La Compagnie de la Baie d'Hudson, qui exploite des grands magasins sous les noms *La Baie*, *Zellers* , *K-Mart* et *Fields*, est le plus grand magasin de vente au détail au Canada.

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Pour plus de renseignements, communiquer avec :

Cécile Suchal
(819) 953-5303

Release 7932-f

News Release

COMPETITION BUREAU SEEKS CONSENT ORDER TO SECURE COMPETITION IN NON-HAZARDOUS SOLID WASTE SECTOR

OTTAWA, March 6, 1998 – The Competition Bureau has filed an application today for a Consent Order with the Competition Tribunal. This application follows successful negotiations with Canadian Waste Services Inc. to remedy competition issues in the non-hazardous solid waste collection and disposal business in Edmonton.

With the purchase of non-hazardous solid waste assets from WMI Waste Management Inc. by Canadian Waste Services in June 1997, the Competition Bureau found that there would be a substantial lessening of competition in the Greater Vancouver, Edmonton, Calgary, Kitchener and Barrie markets. Following initial negotiations between Canadian Waste Services and the Competition Bureau, the company agreed to a voluntary restructuring and sold commercial collection assets in these markets to Capital Environmental Resource Inc.

However – even after the restructuring – a competition issue remained in Edmonton, where the Bureau found that Canadian Waste Services would still have a dominant position in waste disposal. The June 1997 acquisition of the West Edmonton landfill site from WMI Waste Management had given Canadian Waste Services of Oakville, Ontario, operating control of two (West Edmonton and Ryley) of the three primary landfill sites in the Edmonton market.

After several months of negotiation, Canadian Waste Services has agreed with the Competition Bureau to a remedy in which it will offer cost-based access at the Ryley landfill to Capital Environmental Resource Inc. The Bureau has concluded that this access arrangement, together with the divestiture of related assets, will ensure there is no substantial lessening of competition in Edmonton's commercial collection sector.

The terms of this settlement – agreed to by Canadian Waste Services, Capital Environmental Resource and the Bureau – are subject to approval by the Competition Tribunal. The first step in this approval process is the filing of an application for a Consent Order at the Tribunal. With this filing by the Competition Bureau, the draft Consent Order becomes a matter of public record and is available from the Competition Tribunal.

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For more information, please contact:
Frances Phillips (819) 953-4257

Release 7887-e

Communiqué

LE BUREAU DE LA CONCURRENCE DEMANDE UNE ORDONNANCE PAR CONSENTEMENT POUR ASSURER LA CONCURRENCE DANS LE SECTEUR DES DÉCHETS SOLIDES NON DANGEREUX

OTTAWA, le 6 mars 1998 – Le Bureau de la concurrence a déposé aujourd'hui devant le Tribunal de la concurrence une demande d'ordonnance par consentement. Cette demande fait suite à des négociations couronnées de succès avec la société Canadian Waste Services Inc. Ces négociations visaient à remédier à certaines atteintes à la concurrence dans le secteur de la collecte et de l'élimination des déchets solides non dangereux à Edmonton.

Avec l'acquisition des éléments d'actif de l'entreprise de déchets solides non dangereux de WMI Waste Management Inc. par Canadian Waste Services en juin 1997, le Bureau de la concurrence a estimé qu'il y aurait une diminution sensible de la concurrence sur les marchés du Grand Vancouver, d'Edmonton, de Calgary, de Kitchener et de Barrie. Après des négociations initiales entre Canadian Waste Services et le Bureau de la concurrence, la société a volontairement accepté de restructurer ses opérations et elle a vendu ses éléments d'actif liés à la collecte commerciale sur ces marchés à Capital Environmental Resource Inc.

Toutefois, même après la restructuration, la crainte d'une atteinte à la concurrence subsistait à Edmonton, où le Bureau estimait que Canadian Waste Services conserverait une position dominante dans le domaine de l'élimination des déchets. En effet, en acquérant de WMI Waste Management , en juin 1997, le site d'enfouissement de West Edmonton, Canadian Waste Services d'Oakville, en Ontario, contrôlait deux (West Edmonton et Ryley) des trois principaux sites d'enfouissement sur le marché d'Edmonton.

Après plusieurs mois de négociations, Canadian Waste Services a convenu avec le Bureau de la concurrence d'offrir à Capital Environmental Resource Inc. un accès à prix coûtant au site d'enfouissement de Ryley. Le Bureau a conclu que cet arrangement, combiné au dessaisissement des éléments d'actif connexes, ferait en sorte qu'il n'y aurait pas de diminution sensible de la concurrence dans le secteur de la collecte commerciale à Edmonton.

Les modalités du règlement, sur lequel Canadian Waste Services, Capital Environmental Resource et le Bureau se sont entendus, sont sujettes à l'approbation du Tribunal de la concurrence. La première étape de ce processus d'approbation est le dépôt d'une demande d'ordonnance par consentement devant le Tribunal. Avec le dépôt que fait aujourd'hui le Bureau de la concurrence, le projet d'ordonnance par consentement devient public et peut être consulté au Tribunal de la concurrence.

- 30 -

Pour de plus amples renseignements, communiquez avec :

Frances Phillips
(819) 953-4257

Release 7887-f

News Release

ANOTHER ELECTRICAL CONTRACTOR PLEADS GUILTY IN TORONTO BID-RIGGING INVESTIGATION

OTTAWA, February 27, 1998 -- The Competition Bureau announced today that the electrical contracting firm Smith And Long Limited pleaded guilty to 10 counts of bid-rigging and was fined $100,000.00. A form of price-fixing, bid-rigging is an offence under Canada's *Competition Act*.

The Competition Bureau is continuing its investigation of other electrical contractors and one general contractor.

"The Bureau will not cease in its pursuit of all the parties it believes may be involved in bid-rigging schemes across Canada," said Konrad von Finckenstein, Q.C., Director of Investigation and Research. "The integrity of the bidding system in Canada must be maintained so that purchasers can be assured that they are getting the best possible price."

The Toronto-based firm of Smith And Long was sentenced today in the Ontario Court (General Division) in Toronto, on charges relating to the rigging of tenders for electrical contracting work during the period 1990 to 1993. As a result of the early guilty plea, the company received favourable treatment on sentencing.

Bid-rigging is an agreement whereby one or more bidders on a contract refrain from submitting bids or where those who do bid on the contract agree to submit a pre-arranged price. It is only considered an offence if the parties to the agreement fail to make their intentions known to the potential purchaser before submitting their bids.

This conviction is the result of an extensive investigation by the Bureau into the electrical contracting industry in the Toronto area. In December, 1997, four major electrical contracting firms were prosecuted by the Attorney General of Canada, and were fined a total of $2.55 million.

- 30 -

For further information please contact:
Charles Schwartzman
(819) 953-8223

The Competition Bureau offers an education program to assist purchasers in the detection and prevention of bid-rigging. The Bureau also has a program by which anyone, including those wishing to remain anonymous, can bring forward information concerning possible violations of the *Competition Act*.

For further information please contact:
Toll free: 1-800-348-5358 National Capital Region: (819) 997-4282

Release 7883-e

Bureau de la concurrence

Communiqué

UN AUTRE ENTREPRENEUR EN ÉLECTRICITÉ PLAIDE COUPABLE LORS D'UNE ENQUÊTE MENÉE À TORONTO EN MATIÈRE DE TRUQUAGE DES OFFRES

OTTAWA, le 27 février 1998 -- Le Bureau de la concurrence a annoncé aujourd'hui que l'entreprise Smith And Long Limited, entrepreneur en électricité, a plaidé coupable à dix chefs de truquage des offres et a été condamnée à verser une amende de 100 000 $. Le truquage des offres et la fixation des prix reprochés à l'entrepreneur constituent des infractions aux termes de la *Loi sur la concurrence* du Canada.

Le Bureau de la concurrence poursuit son enquête auprès de certains autres entrepreneurs en électricité et d'un entrepreneur général.

«Le Bureau continuera à poursuivre toutes les parties qu'il soupçonne de participer à des manoeuvres de truquage des offres au Canada», a affirmé M^{e} Konrad von Finckenstein, c.r., Directeur des enquêtes et recherches. «Il importe de maintenir l'intégrité du système d'appel d'offres au Canada afin de pouvoir affirmer aux consommateurs qu'ils obtiennent le meilleur prix possible».

L'entreprise Smith And Long, de Toronto, a été condamnée aujourd'hui devant la Cour de l'Ontario (division générale), à Toronto, relativement à des accusations liées au truquage des offres concernant des travaux d'électricité au cours de la période allant de 1990 à 1993. Étant donné que l'entreprise avait plaidé coupable au début de l'instance, elle a bénéficié d'un traitement favorable lors de la détermination de la peine.

Le truquage des offres est une pratique par laquelle au moins un soumissionnaire s'abstient de soumettre une offre ou dans le cadre de laquelle ceux qui présentent une offre conviennent de proposer un prix déterminé à l'avance. La pratique ne constitue une infraction que lorsque les parties à l'entente omettent de faire connaître leurs intentions à l'acheteur éventuel avant de soumettre leurs offres.

Cette condamnation est le fruit d'une enquête poussée que le Bureau a menée auprès des entrepreneurs en électricité de la région de Toronto. En décembre 1997, le procureur général du Canada a poursuivi quatre grandes entreprises qui sont des entrepreneurs en électricité et qui ont été condamnées à verser des amendes totalisant 2 550 000 $.

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Si vous désirez obtenir des renseignements supplémentaires, veuillez communiquer avec :
Charles Schwartzman (819) 953-8223

Le Bureau de la concurrence offre un programme d'éducation visant à aider les consommateurs à déceler et à prévenir le truquage des offres. Le Bureau offre aussi un programme permettant à toute personne de communiquer, même sous le couvert de l'anonymat, des renseignements concernant des infractions pouvant avoir été commises aux termes de la Loi sur la concurrence.

Si vous désirez obtenir des renseignements supplémentaires, veuillez communiquer avec :
Ligne sans frais : 1-800-348-5358 Région de la Capitale nationale : (819) 997-4282

Release 7883-f

Competition Bureau

News Release

FOUR MANUFACTURERS PLEAD GUILTY TO BID-RIGGING INVOLVING ALBERTA CROWN TIMBER CONTRACTS

OTTAWA, February 10, 1998 - The Competition Bureau announced today that four manufacturers of wood products pleaded guilty to rigging bids to buy certain timber lots at an Alberta Land and Forest Service auction in Blairmore, Alberta. The offence took place in November 1996 and was contrary to section 47(2) of the *Competition Act*.

"Individuals and corporations need to have trust in the honesty and fairness of a competitive bidding process," said Konrad von Finckenstein, Director of Investigation and Research. "Any action that threatens this will be thoroughly investigated. This case demonstrates how enforcement of the *Competition Act* assists in maintaining and encouraging free and fair market practices in Canada."

The Alberta Court of Queen's Bench ordered Ms. Jennifer Brotzell, of Medicine Hat, Mr. George F. Knight, of the Village of Coleman and Mr. Carmen Douglas Rinke, of the Village of Lundbreck, to each pay a fine of $5,000 and Mr. Blaine Lloyd Whittaker of the City of Calgary, to pay a fine of $3,000. As well, Ms. Brotzell was ordered to complete 50 hours of community service, and Mr. Whittaker 25 hours.

A fifth manufacturer of wood products, Mr. James P. Lindemulder of the City of Calgary, who also participated as bidder in the same auction, was also charged. Mr. Lindemulder was charged with one count of bid-rigging and with one count of attempting to impede an inquiry, contrary to section 64 of the *Competition Act*.

In addition to the fines, the Court imposed a Prohibition Order of three years against Ms. Brotzell and her company, Dunmore Wood Preservers Ltd., Mr. Knight of Natal Forest Products Ltd., Mr. Rinke of Rinke & Sons Lumber Ltd., and Mr. Whittaker.

The Order prohibits these manufacturers and their companies from engaging in a number of activities which could interfere with competition in the bidding for the purchase of timber lots at future auctions. In particular, they are barred from agreeing not to bid, or not to compete with each other in connection with purchases of timber from the Alberta Land and Forest Service. As well, the Order prohibits these manufacturers from agreeing to submit or not submit bids without first advising the bidding authority.

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For more information, please contact:
Cécile Suchal
(819) 953-5303

Release 7870-e

Competition Bureau

News Release

ELECTRICAL CONTRACTORS PLEAD GUILTY TO BID-RIGGING AND PAY FINES OF $2.55 MILLION

OTTAWA, December 19, 1997 -- Konrad von Finckenstein, Q.C., Director of Investigation and Research under the *Competition Act* , announced today that four Toronto electrical contractors, 948099 Ontario Inc. (carrying on business as Plan Electric Co.), Ainsworth Inc., Guild Electric Limited, and The State Group Limited, pled guilty in the General Division of the Ontario Court, in Toronto, to bid-rigging, contrary to section 47 of the Act, and must pay fines totaling $2.55 million.

The charges relate to the period from 1988 to 1993 and are the result of an extensive criminal investigation conducted by the Competition Bureau into a scheme designed to create the illusion of competitive pricing.

Although the majority of the tenders which the companies were convicted of rigging affected electrical contracts for the renovation of commercial space, including certain leasehold improvements at Pearson Airport's Terminal III, some of the companies were also convicted of rigging tenders related to major new construction projects, including the SkyDome Hotel and BCE Place - Phase 2 .

"Businesses go to great lengths to ensure they are obtaining the best possible price by using a tendering system ," Mr. von Finckenstein stated. "Substantial penalties are necessary to deter those who seek to corrupt the competitive tendering process through illegal agreements."

Plan was convicted on 13 counts and was fined $750,000. Ainsworth was convicted on seven counts and was fined $750,000, Guild was convicted on six counts and was fined $300,000, and State was convicted on 13 counts and was fined $750,000. These parties have received favourable treatment for entering early guilty pleas. Ainsworth and Plan also received additional consideration as a result of having cooperated with the investigation.

The four companies have each taken steps to institute internal compliance programs designed to ensure compliance with the Act.

The Bureau's investigation into allegations of bid-rigging by other electrical contractors, and related conduct by a general contractor, in the Metropolitan Toronto area continues. The Director anticipates making recommendations concerning these other parties to the Attorney General of Canada in the near future.

The Competition Bureau offers an education program to assist companies that utilize the tendering process to detect and prevent bid-rigging, and also to educate bidders to ensure they comply with the Act. In addition, the Bureau has a program by which anyone, including those wishing to remain anonymous, can bring forward information concerning possible violations of the Act.

- 30 -

For further information please contact:

Cécile Suchal
(819) 953-5303

Release 7851-e

Information

COMPETITION BUREAU INTRODUCES FEE CHARGING POLICY

OTTAWA, October 20, 1997 -- The Competition Bureau announced today that it will begin charging fees for some of the services and regulatory processes it provides under the *Competition Act*. Fees will become effective November 3, 1997 after the proposal is published in Part I of *The Canada Gazette*.

The Bureau's initiative is consistent with the government's Cost Recovery and Charging Policy, which is to ensure that fees are targeted only to those parties who obtain direct benefit, over and above that received by the general public.

After extensive consultations and feedback from interested stakeholders, a limited number of activities under the *Competition Act* have been identified as suitable for fees:

- Pre-Merger Notification filings;
- Advance Ruling Certificates;
- Advisory Opinions; and
- Photocopies in certain instances

The Bureau will charge a fee of $25,000 for Advance Ruling Certificates and for those matters requiring Pre-Merger Notification filings. Written Advisory Opinions on Sections 52 to 60 of the *Act* will cost $500. Requests dealing with other Sections will cost $4000. Photocopies will cost 25 cents per page.

A fee and standards regime will make the Bureau's services more efficient. Companies and individuals paying the fees will benefit from more informative reviews and opinions and, in most instances, quicker turn-around times.

The Bureau will establish an annual fee forum to review performance, complaints and service levels. The forum, as well as other mechanisms, will provide an opportunity for clients to give feedback on an annual basis. The Bureau will publicly report on its performance in its Annual Report to Parliament and on a quarterly basis to stakeholders.

A Backgrounder and the Competition Bureau Fee and Standards Handbook will be available soon on the Internet at: **http://strategis.ic.gc.ca/competition** or by contacting:

Bernard Chénier
Complaints and Public Enquiries Centre
Competition Bureau
Industry Canada
50 Victoria Street
Hull, Quebec
K1A 0C9
Fax-on-Demand: (819) 997-2869
Tel: National Capital Region: (819) 997-4282
Toll free: 1-800-348-5358

- 30 -

For more information, please contact:

John Barker
(819) 997-3763

BACKGROUNDER

COMPETITION BUREAU FEE CHARGING POLICY

Introduction

The mandate of the Competition Bureau (Bureau) of the Department of Industry is to enforce and administer the *Competition Act* (Act) in order to maintain and encourage competition in Canada and to promote an efficient and adaptable Canadian economy.

The Bureau's main goal is to promote conformity with the law. One of the best ways to achieve this is through the provision of more effective services and high quality products.

In pursuing its mandate, the Bureau strives to achieve a number of objectives, including investigating illegal activity and preventing contraventions of the *Act* through various means including merger review and the provision of advisory opinions pertaining to proposed business conduct. The following are the details pertaining to the introduction of fees for pre-merger notification filings (PMNs), advance ruling certificates (ARCs), advisory opinions and photocopies.

The fee policy is consistent with the government's overall objective of fairness which seeks to ensure that those who benefit most from a service should pay for it, rather than have all Canadians pay through general taxation.

The Services and Regulatory Processes

Premerger Notification Filings

Under section 114 of the *Act*, a person or persons who are proposing a merger transaction and meet specific thresholds must, before completing the transaction, notify the Director of Investigation and Research (DIR) that the transaction is proposed and supply the Bureau with information as specified in the *Act*. The transaction must not be completed before the expiration of a certain period[1] unless the DIR provides prior notification to the person or persons that he does not intend to make an application to the Competition Tribunal.

Advance Ruling Certificates

Under section 102, where the Director is satisfied by a party or parties to a proposed transaction that he would not have sufficient grounds to apply to the Competition Tribunal for an order under section 92, the Director may issue an Advance Ruling Certificate (ARC) in respect of a proposed transaction.

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[1] Seven or twenty-one days pursuant to sections 121 and 122 respectively.

Advisory Opinions

Pursuant to its Program of Compliance, the Bureau undertakes to promote and ensure compliance with the provisions of the *Act* through a variety of mechanisms including a program of communication and education and the use of specific instruments such as advisory opinions.[2]

The Bureau will institute fees for one type of advisory opinion on the potential application of the *Competition Act* to proposed business conduct. The specific opinion for which fees will be charged will be based on information submitted by the applicant[3] as well as on previous jurisprudence, previous opinions, Bureau knowledge and the stated policies of the Director. The Bureau will not undertake third party contacts or verifications.

Photocopies

The Bureau is periodically approached to make photocopies for various agencies or persons from within or outside the Department of Industry. In these circumstances, the Bureau will charge for photocopies at a rate of 25 cents per page. Such a fee will enable the Bureau to recover these costs.

This fee will also apply to parties seeking photocopies of documents seized under Section 15 of the Act once these have been returned to the Bureau. Pursuant to section 15, a judge of a superior or county court or of the Federal Court may issue a warrant authorizing the DIR or an authorized representative to search premises and to copy or seize records for examination or copying. The Bureau will charge a fee to persons who are the subject of a search (or their counsel) and who request copies of seized documents[4] before these have been returned to the parties under inquiry.

Background

In developing this proposal, consideration has been given to the comments received during the 1993 User Fee Consultation and the 1995 Advisory Opinion Survey. More recently in June 1997, the Competition Bureau's User Fee Policy Development Forums were held in Toronto, Montreal and Vancouver and these were followed with the publication of a consultation paper in Part I of the Canada Gazette and wide distribution of the paper and Business Impact

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2 Additional information is available in the Competition Bureau's Program of Compliance publication.

3 Idem

4 With the exception of copies of essential working documents.

Test in July, 1997. Those consulted included members of the legal and business communities, a number of associations as well as the public. These consultations provided very valuable feedback to the Bureau.

1) Turn-around times have been refined to be both challenging and realistic. They are the following:

Service Regulatory Process	**Maximum Turn-around Times**
Premerger Notification	
non-complex	14 days
complex	10 weeks
very complex	5 months
Advisory Opinions	
Sections 52 to 60	
non-complex	8 days
complex	30 days
Other provision	
non-complex	4 weeks
complex	8 weeks

There was some concern that the turn-around times for very complex mergers and for complex advisory opinions might negatively impede business transactions. These were subsequently re-visited and refined and represent the maximum time within which one can expect the provision of the stated service.

2) There were suggestions made to make the Advisory Opinion letter more user-friendly and clear, to indicate the reasoning behind the response and to consider Bureau knowledge and policies and any jurisprudence when formulating these opinions.

3) An information document detailing the type of information that is required by the Bureau for merger review and for advisory opinions has been developed, and will be available on the Bureau's web site at **http://strategis.ic.gc.ca/competition** or by contacting the Complaints and Public Enquiries Centre.[5] .

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[5] The Complaints and Public Enquiries Centre can be reached at (819) 997-4282 in the National Capital Region or toll free at 1-800-348-5358.

Fee Schedule

1.	Premerger notification filing*	$ 25,000.00/each
2.	Advance ruling certificate request	$ 25,000.00/each
3.	Advisory opinion request**	
	Sections 52 to 60 of the Act	$ 500.00/each
	All other provisions	$ 4,000.00/each
4.	Photocopies	$ 0.25/page

* Premerger notification filings for the class of transactions normally referred to as asset securitizations will be levied a fee of $50/each.

** A fee of $50.00 will be levied for requests for interpretations of or compliance with prohibition orders and judgements and requests made by non-profit community-based organizations.

Refund Policy

1. The fee for a premerger notification filing will be refunded upon request if the parties abandon the transaction within 2 days from the time of the filing.

2. The fee for an Advance Ruling Certificate request will be refunded upon request if the proposal is withdrawn within 2 days from the time that the request for the certificate is made and a certificate has not been issued.

3. The fee for an advisory opinion request will be refunded upon request if this request is made within 2 days from the time that the request for an opinion is made. This does not apply to opinions involving section 52 to 60 of the Act due to the short turn-around times.

Method of Payment

Payments may be made by VISA, Mastercard or by cheque made payable to the Receiver General for Canada.

Information

ERRATUM

The Competition Bureau Information Bulletin Issued on October 20, 1997 contained an error. The last line of the first paragraph should read: "Fees will become effective November 3, 1997 after the proposal is published in Part I of The Canada Gazette."

Competition Bureau

News Release

COMPETITION BUREAU FILES APPLICATION WITH COMPETITION TRIBUNAL CONCERNING MAIL-ORDER RECORD CLUBS

OTTAWA, SEPTEMBER 30, 1997 -- The Competition Bureau announced today that an Application has been filed with the Competition Tribunal against Warner Music Canada Ltd., based in Scarborough, Ontario, and its U.S. affiliates, WEA International Inc. and Warner Music Group Inc., based in New York City (Warner). The Application was filed by Francine Matte, Q.C., Senior Deputy Director of Investigation and Research.

The Application has been made pursuant to section 75 of the *Competition Act*, as a result of the refusal by these Warner companies to supply licences which would enable BMG Direct Ltd. ("BMG") to market Warner compact disks (CDs) and cassette tapes in Canada through its mail-order record club.

The Application alleges that BMG entered the mail-order record club business in Canada in late 1994 to compete with the Columbia House Company ("CHC"). Warner has a fifty per cent interest in CHC. CHC is supplied by Warner and it is the dominant national mail-order record club operating in Canada. According to the Application, because of its inability to offer Warner CDs and cassettes to its members, BMG has been unable to maintain an adequate selection to offer to its members and is at risk of having to withdraw from the Canadian market.

It is estimated that some two million Canadians buy $200 million worth of CDs and cassettes through mail-order record clubs each year. The Application seeks to maintain and promote competition among these clubs for the benefit of Canadian consumers.

An Order is therefore being sought from the Competition Tribunal requiring Warner Canada and its affiliates to supply BMG Direct Ltd. Under the rules of the Tribunal, the Respondents have 30 days to file a response.

- 30 -

For more information, please contact:
André Lafond (819) 997-1209

Release 7768-e

Bureau de la concurrence

Communiqué

LE BUREAU DE LA CONCURRENCE DÉPOSE UNE DEMANDE AU TRIBUNAL DE LA CONCURRENCE CONCERNANT LES CLUBS DE DISQUES PAR CORRESPONDANCE

OTTAWA, 30 septembre 1997 — Le Bureau de la concurrence a annoncé aujourd'hui qu'une demande avait été déposée au Tribunal de la concurrence contre Warner Music Canada Ltd. dont le siège est à Scarborough en Ontario, et ses sociétés affiliées américaines WEA International Inc. et Warner Music Group Inc. dont le siège est à New York (Warner). M[e] Francine Matte, c.r., sous-directrice principale des enquêtes et recherches, a déposé la demande.

La demande a été faite en vertu de l'article 75 de la *Loi sur la concurrence* suite au refus de ces sociétés Warner d'accorder à BMG Direct des licences l'autorisant à vendre au Canada des disques compacts et des cassettes Warner par l'entremise de son club de disques par correspondance.

Il est allégué dans la demande que BMG a lancé au Canada son club de disques par correspondance vers la fin de 1994 afin de concurrencer La maison de disques Columbia (Columbia). Warner détient 50 % des intérêts de Columbia et l'approvisionne. Warner est le club de disques par correspondance dominant au Canada. Selon la demande, à cause de son incapacité d'offrir à ses membres des disques compacts et des cassettes Warner, BMG ne peut maintenir une sélection adéquate et risque de devoir se retirer du marché.

On estime que chaque année, environ deux millions de Canadiens et de Canadiennes achètent pour 200 millions de dollars de disques compacts et de cassettes par l'entremise de clubs de disques par correspondance. La demande vise à maintenir et à promouvoir la concurrence entre ces clubs pour le bénéfice des consommateurs et consommatrices au Canada.

Le Tribunal de la concurrence est donc saisi d'une demande visant à obliger Warner Canada et ses sociétés affiliées à fournir des produits à BMG Direct Ltd. Conformément aux règles du Tribunal, les intimés doivent produire une réponse dans un délai de 30 jours.

- 30 -

Pour plus de renseignements, veuillez communiquer avec :

André Lafond
(819) 997-1209

Release 7768-f

Competition Bureau

News Release

COMPETITION BUREAU REQUESTS A STAY OF PROCEEDINGS CHALLENGING THE MERGER BETWEEN CAST NORTH AMERICA INC. AND C.P. LIMITED

OTTAWA, September 9, 1997 -- The Competition Bureau announced today that it is seeking a stay of proceedings with respect to an application challenging the acquisition of Cast North America Inc. by Canadian Pacific Limited.

On December 22, 1996 an application was filed with the Competition Tribunal challenging the merger between Cast and C.P. Limited alleging that it substantially lessened or prevented competition in container shipping between Montreal and Northern Europe.

The merged companies operate fully integrated intermodal container shipping services known as Cast and Canada Maritime.

The application for the stay was filed in response to the planned entry of a competing service in the market by a consortium consisting of Maersk Line, Sea-Land Service Inc., and P&O Nedlloyd Container Line Ltd.

The stay would allow the Director the opportunity to assess the competitive impact of the proposed entry.

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For more information, please contact:
Cécile Suchal (819) 953-5303

Release 7744-e

Communiqué

LE BUREAU DE LA CONCURRENCE DEMANDE UNE SUSPENSION DES PROCÉDURES CONTESTANT LE FUSIONNEMENT DE CAST NORTH AMERICA INC. ET C.P. LIMITÉE

OTTAWA, le 9 septembre 1997 --Le Bureau de la concurrence a annoncé aujourd'hui qu'il demande une suspension des procédures concernant une demande contestant le fusionnement de Cast North America et Canadien Pacifique Limitée.

Le 22 décembre 1996, une demande a été déposée au Tribunal de la concurrence contestant le fusionnement entre Cast et C.P. Limitée et allèguant qu'il diminuait ou empêchait substantiellement la concurrence dans le transport par conteneur entre Montréal et l'Europe du Nord.

Les entités au fusionnement exploitent des entreprises pleinement intégrées de services de transport par conteneur multimodal connues sous les noms de Cast et Canada Maritime.

La demande de suspension a été déposée suite à l'entrée planifiée dans le marché d'un service concurrentiel créé par un consortium composé de Maersk Line, Sea-Land Service Inc. et P&O Nedlloyd Container Line Ltd.

La suspension donnerait au Directeur l'occasion d'évaluer l'impact concurrentiel de l'entrée proposée.

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Pour de plus amples renseignements, veuillez communiquer avec :
Cécile Suchal (819) 953-5303

Release 7744-f

News Release

INFORMATION BULLETIN ON CORPORATE COMPLIANCE PROGRAMS RELEASED BY THE COMPETITION BUREAU

OTTAWA, JULY 10, 1997 — The Competition Bureau announced today that the **Information Bulletin on Corporate Compliance Programs** is now available.

This publication is one in an ongoing series of Bulletins and other publications designed to assist all businesses to better understand the *Competition Act* and to comply with it in their daily operations. The Bureau encourages firms to adopt internal programs of compliance.

"The importance of a corporate compliance program in avoiding anti-competitive conduct under the Act and in detecting and dealing with such behaviour cannot be underestimated," said Mr. Konrad von Finckenstein, Director of Investigation and Research under the *Competition Act.* "Business persons want to comply with the law and we have prepared, in consultation with stakeholders, a proactive approach to maximize compliance efforts."

Copies of the Bulletin are available by contacting the Competition Bureau at these numbers:

Toll free 1-800-348-5358

National Capital area: 997-4282

You may also go to the Bureau's Internet address: http://strategis.ic.gc.ca/competition

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For more information, please contact:

Cécile Suchal
(819) 953-5303

Release 7706-e

Communiqué

BULLETIN D'INFORMATION SUR LES PROGRAMMES DE CONFORMITÉ PRÉSENTÉ PAR LE BUREAU DE LA CONCURRENCE

OTTAWA, le 10 juillet 1997 -- Le Bureau de la concurrence a annoncé aujourd'hui que Bulletin d'information sur les programmes de conformité est maintenant disponible.

Cette publication fait partie d'une série de Bulletins d'information et d'autres publications destinées à fournir de l'aide à toutes les entreprises à mieux comprendre la *Loi sur la concurrence* et à faciliter la conformité à la *Loi* dans leurs activitiés quotidiennes. Le Bureau encourage les entreprises à adopter un programme de conformité interne.

«On ne saurait sous-estimer l'importance d'un programme de conformité pour éviter les agissements anticoncurrentiels interdits par la *Loi*, pour les déceler et pour y remédier,» a déclaré M^e^ Konrad von Finckenstein, directeur des enquêtes et recherches nommé en vertu de la *Loi sur la concurrence*. «La plupart des entreprises visent à respecter la loi et nous avons préparé, en collaboration avec des groupes et des personnes intéressés, une approche proactive propre à maximiser les efforts de conformité.»

Des copies du Bulletin sont disponisbles en téléphonant au Bureau :
numéro sans frais : 1-800-348-5358
Région de la capitale nationale : 997-4282
Sur Internet à l'adresse suivante : http://strategis.ic.gc.ca/concurrence

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Pour obtenir de plus amples renseignements, veuillez communiquer avec :

Cécile Suchal
(819) 953-5303

Release 7706-f

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